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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants*.	Case No. 5:19-01546-JGB(SHKx) **DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION TO ENFORCE THE APRIL 20, 2020 PRELIMINARY INJUNCTION ORDER** **Before The Honorable Jesus G. Bernal** **Hearing Date:** July 17, 2020 **Hearing Time:** 2:00 p.m.

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INTRODUCTION

Since the beginning of the COVID-19 pandemic, U.S. Immigration and Customs Enforcement ("ICE") has acted and continues to act in response to the pandemic. Every immigration detention facility has made robust efforts to prevent COVID-19 and to slow or stop its transmission. The gravamen of Plaintiffs' Motion to Enforce the Preliminary Injunction is not about noncompliance with, or modification of, the preliminary injunction. Plaintiffs are, instead, concerned about the speed with which ICE updates its COVID-19 Pandemic Response Requirements ("PRR"), and they raise grievances about not receiving confirmation that custody redeterminations have been completed, which is not required by the preliminary injunction or any other authority. To these two core grievances, Plaintiffs attached a long list of new allegations unrelated to the preliminary injunction, including allegations concerning testing, transfers, medical isolation, and the use of disinfectants in facilities.

The bottom line is that ICE has done and is doing everything required of it, and Plaintiffs have no basis to introduce a litany of other issues into this case. Plaintiffs' pursuit of those unrelated issues is matched by their submission of more than 20 declarations that raise issues on which Plaintiffs do not even seek enforcement or modification, such as issues concerning social distancing and cleaning, and the provision of masks and soap. However, ICE is acting in all of these areas to stop or slow the spread of COVID-19. First, ICE has reduced its population nationwide by at least 40% since March 1, 2020, which allows for a greater ability for social distancing among detainees. *See* Declaration of Lindsay M. Vick, Ex. 1, Declaration of Tae D. Johnson at ¶ 11. At some facilities the population is at approximately 50% capacity or below, which allows for detainees at those facilities a greater ability to social distance. *See id.* at Ex. 2, Declaration of Gary Chamberlain (Pine Prairie); Ex. 3, Declaration of Kelley Beckhelm (Otay Mesa); Ex. 4, Declaration of Michael Russo (Bergen County Jail); Ex. 5, Declaration of Scott Spurlock (Pulaski County); Ex. 6, Declaration of Patrick Musante (Irwin County Detention Center); Ex. 7, Declaration of Scot Jackson (Farmville); Ex. 8, Declaration of Stephanie Mros

(Caroline Detention Facility); Ex. 9, Declaration of Greg Davies (Aurora Contract Detention Facility); Ex. 10, Declaration of George Sterling (Folkston). Second, ICE is providing ample masks and soap to detainees and has increased the cleaning procedures at its facilities. *See, e.g.*, Ex. 11, Declaration of Alfaro Ortiz (Essex County Correctional Facility); Ex. 12, Declaration of Ron Edwards (Hudson County Department of Corrections); Ex. 13, Declaration of Juan Acosta (El Paso Field Office Area of Responsibility); Ex. 14, Declaration of Andrew Huron (South Texas Immigration Processing Center); Ex. 15, Declaration of Anthony Louis (IAH Secure Adult Detention Facility); Ex. 16, Declaration of Bryan Pitman (Etowah County Detention Center); Ex. 17, Declaration of Melanie White (Orange County Jail); Ex. 23, Declaration of Gary Chamberlain (South Louisiana); *see also* Ex. 24, Demonstrative Chart (rebutting allegations concerning conditions of detention). Simply put, this is not a forum in which Plaintiffs may raise any and all grievances concerning immigration detention. Because Plaintiffs have done so, the Court should deny Plaintiffs' motion to enforce the preliminary injunction order.

ARGUMENT

Plaintiffs present myriad allegations and a laundry list of additional new evidence and requests concerning ICE's operations and response to COVID-19, but they fail to show any violation of the terms of the preliminary injunction order ("PI Order"), much less clear and convincing evidence of a violation, such that enforcement of the PI Order in this case is warranted. *See* PI Order, ECF No. 132 at 38-39. Nor can Plaintiffs establish this Court's jurisdiction to modify the PI Order as requested in their motion or demonstrate new facts to warrant any modification.

I. Legal Standards

a. Enforcement Of A Preliminary Injunction

Courts have the power to impose compliance with their lawful orders. *See Shillitani v. United States*, 384 U.S. 364, 370 (1966) ("There can be no question that courts have

inherent power to enforce compliance with their lawful orders through civil contempt."). And while the parties agree on this, Plaintiffs' motion is silent on the high burdens they must meet to prevail on their enforcement motion. Such motions are assessed under the clear and convincing standard. *See In re Dual-Deck Video Cassette Recorder Antitrust Litig.*, 10 F.3d 693, 695 (9th Cir. 1993) (a "party alleging civil contempt must demonstrate that the alleged contemnor violated the court's order by 'clear and convincing evidence,' not merely a preponderance of the evidence.") (citation omitted); *see also Stone v. City and Cty. of San Francisco*, 968 F.2d 850, 856 n.9 (9th Cir. 1992) ("The moving party has the burden of showing by clear and convincing evidence that the contemnors violated a specific and definite order of the court." (citations omitted)). The Court has broad discretion to hold a party in contempt. *Hook v. Ariz. Dep't of Corr.*, 107 F.3d 1397, 1403 (9th Cir. 1997).

Further, a showing of non-compliance is not enough to compel an enforcement action. First, "[s]ubstantial compliance with the court order is a defense to contempt." *In re Dual-Deck*, 10 F.3d at 695 (quotation marks omitted). Second, where a party's failure to comply with a preliminary injunction order was based on a good faith and reasonable interpretation of the court's order, holding a party in contempt is not warranted. *See In re Dual-Deck*, 10 F.3d at 695. Following from that principle, an order by a district court is not enforceable by contempt if the order is not clear and specific. *See Gates v. Shinn*, 98 F.3d 463, 468 (9th Cir. 1996) ("If an injunction does not clearly describe prohibited or required conduct, it is not enforceable by contempt."); *see also Fortyune v. Am. Multi-Cinema, Inc.*, 364 F.3d 1075, 1086–87 (9th Cir. 2004) ("[O]ne basic principle built into Rule 65 is that those against whom an injunction is issued should receive fair and precisely drawn notice of what the injunction actually prohibits.") (quoting *Granny Goose Foods, Inc. v. Bhd. of Teamsters*, 415 U.S. 423, 444 (1974)) (internal citation omitted). "[T]he specificity provisions of Rule 65(d) are not mere technical requirements. The Rule was designed to prevent uncertainty and confusion on the part of those faced with injunctive orders, and to avoid the possible founding of a contempt citation on a decree too vague to

be understood." *Fortyune*, 364 F.3d at 1087 (citing *Schmidt v. Lessard*, 414 U.S. 473, 476 (1974)).

b. Modification Of A Preliminary Injunction

A district court has authority to enforce its own injunction and retains "jurisdiction during the pendency of an appeal to act to preserve the status quo." *Natural Res. Def. Council Inc. v. San Diego Baykeeper, Inc.*, 242 F.3d 1163, 1166 (9th Cir. 2001) (where the court found that enforcing an obligation was within the court's jurisdiction while the case was on appeal because, as it was part of the court's orders, doing so would "not materially alter the status of the case."). The Ninth Circuit has cautioned, however, that this rule "does not restore jurisdiction to the district court to adjudicate anew the merits of the case" and that any action taken pursuant to it "may not materially alter the status of the case on appeal." *Id.* (citations and quotation marks omitted); *see also McClatchy Newspapers v. Cent. Valley Typographical Union No. 46*, 686 F.2d 731, 735 (9th Cir. 1982) (after appeal is filed, the district court "may not finally adjudicate substantial rights directly involved in the appeal") (quotations omitted).

A party seeking modification of an injunction may meet its initial burden by showing a significant change either in factual conditions or in law. *See Rufo v. Inmates of Suffolk Cty. Jail*, 502 U.S. 367, 384 (1992); *see also Sharp v. Weston*, 233 F.3d 1166, 1170 (9th Cir. 2000) ("A party seeking modification or dissolution of an injunction bears the burden of establishing that a significant change in facts or law warrants revision or dissolution of the injunction.") (citation omitted). "If the moving party meets this standard, the court should consider whether the proposed modification is suitably tailored to the changed circumstance." *Rufo*, 502 U.S. at 383. A court's equitable remedial powers are not automatic or unbounded. *See Swann v. Charlotte-Mecklenberg Bd. of Ed.*, 402 U.S. 1, 15 (1971) ("Remedial judicial authority does not put judges automatically in the shoes of school authorities whose powers are plenary."). Courts have held that such power is

available only where there is an overwhelming record of prolonged—and often undisputed—noncompliance with a court order. *Id*. Even where noncompliance is clear, the court's power is limited to redressing the proven violation. *Swann*, 402 U.S. at 15 ("[T]he nature of the violation determines the scope of the remedy.").

II. The Court Should Give No Weight To Plaintiffs' Hearsay Declarations.

Plaintiffs rely on the declarations of 29 detainees, advocates, and purported experts in support of their motion. The Court should accord no weight to the declarations for which declarants lack personal knowledge, fail to lay a proper foundation for an assertion, or provide statements based on hearsay. *See* Fed. R. Civ. P. 56 (c)(4); Fed. R. Evid. 801–802; Fed. R. Evid. 601–602; Fed. R. Evid. 701; *see also Wang v. Chinese Daily News, Inc.*, 231 F.R.D. 602, 615 (C.D. Cal. 2005) (sustaining hearsay objection to declaration statement); *Bank Melli v. Pahlavi*, 58 F.3d 1406, 1412 (9th Cir. 1995) (a declaration not made on personal knowledge is entitled to no weight); *Self-Ins. Inst. of Am., Inc. v. Software and Info. Ind. Ass'n*, 208 F. Supp. 2d 1058, 1063–64 (C.D. Cal. 2000) (affirming defendants' objections over (1) a declarant's statements about third persons being "confused" for lack of personal knowledge and (2) statements about "calls to myself and to my staff" from clients because the statements in these calls are inadmissible hearsay); *Wells v. Jeffery*, No. 03-cv-228, 2006 WL 696057, at *3 n.7 (D.D.C. Mar. 20, 2006) ("The affidavit or declaration cannot contain hearsay evidence, as such evidence would not be admissible at trial."). Here, at least 20 out of 29 of the declarations filed by Plaintiffs are based on hearsay and contain only vague and nonspecific references to events and conduct that is impossible to verify. *See* ECF No. 172-4, Declaration of Allyson Page; ECF No. 172-5, Declaration of Anne Rios; ECF No. 172-6, Declaration of William Lienhard; ECF No. 172-7, Declaration of Charlie Flewelling; ECF No. 172-11, Declaration of Jessica Schneider; ECF No. 172-12, Declaration of Jessica Myers Vosburgh; ECF No. 172-13, Declaration of Julie Pasch; ECF No. 174, Declaration of Andrea Saenz; ECF No. 175, Declaration of Katherine Russell; ECF No. 176, Declaration of Keren Zwick; ECF No. 177, Declaration of Kyle

Edgerton; ECF No. 178, Declaration of Laura Lunn; ECF No. 179, Declaration of Laura Rivera; ECF No. 180, Declaration of Linda Corchado; ECF No. 181, Declaration of Lindsay Bailey; ECF No. 182, Declaration of Liza Doubossarskaia; ECF No. 184, Declaration of Maria del Pilar Gonzalez Morales; ECF No. 185, Declaration of Mark Feldman; ECF No. 188, Declaration of Shyrissa Dobbins; and ECF No. 190, Declaration of Wendy King.

While most of Plaintiffs' declarations are based on hearsay, Defendants' declarations are based on the personal knowledge of the declarant who is physically at the detention facility in question. Therefore, Defendants' declarations should be accorded greater weight than Plaintiffs' declarations. *See* Fed. R. Civ. P. 56 (c)(4); Fed. R. Evid. 801–802; Fed. R. Evid. 601–602; Fed. R. Evid. 701; *see also Bank Melli*, 58 F.3d at 1412 (a declaration not made on personal knowledge is entitled to no weight). At the very least, Defendants' declarations demonstrate Defendants' substantial compliance with the PI Order. Therefore, the Court should give no weight to Plaintiffs' declarations.

III. Plaintiffs Fail To Show That Defendants Have Violated Any Provision Of The PI Order.

a. Plaintiffs Have Not Shown Clear And Convincing Evidence Of A Violation Of The PI Order Concerning Custody Redeterminations

Plaintiffs fail to demonstrate by clear and convincing evidence that Defendants are in violation of the PI Order as it relates to custody redeterminations. They argue that the custody redetermination process lacks meaningful review because they do not receive confirmation of the custody redetermination decision, even though no such confirmation is required. They also argue that Defendants are carrying out the custody redetermination process in violation of the PI Order because more detainees have not been released and because of ICE's position that detainees subject to mandatory detention are not eligible for discretionary release. Ultimately, Plaintiffs contend that Defendants fail to consider risk

factors as a "significant discretionary factor" weighing in favor of release. Such arguments are unavailing. Pls.' Mot. to Enforce at 16-17.

The PI Order requires that ICE:

> make timely custody determinations for detainees with Risk Factors, per the latest Docket Review Guidance. In making their determinations, Defendants should consider the willingness of detainees with Risk Factors to be released, and offer information on post-release planning, which Plaintiffs may assist in providing.

PI Order at 38. ICE's Docket Review Guidance, dated April 4, 2020, which is incorporated into ICE's PRR, revised June 22, 2020, indicates that the presence of a risk factor "should be considered a significant discretionary factor weighing in favor of release." Declaration of Timothy P. Fox, Ex. 14 at 123 ("Revised PRR"). Since the PI Order was issued, ICE has continued to comply with this requirement.[1] Contrary to Plaintiffs' arguments, neither the PI Order nor ICE's guidance contemplate a *Fraihat* release request process wherein a detainee can request a custody redetermination pursuant to *Fraihat* and is entitled to receive a decision—complete with the officer's findings and rationale—within a certain period of time. Pls.' Mot. to Enforce at 16-21. Instead, the PI Order requires that ICE "timely" render custody redeterminations in accordance with the expanded list of risk factors. The Court clarified that "timely" meant that ICE should conduct the custody redeterminations almost

[1] *See, e.g.*, Johnson Decl. ¶ 34; Declaration of Ada Rivera ¶ 28; Pitman Decl. at ¶¶ 41-42 (confirming that the facility has complied, and continues to comply, with the custody redetermination requirement for *Fraihat* subclass members); Chamberlain Decl. at ¶¶ 36-37 (same); Beckhelm Decl. at ¶¶ 11, 24 (same); Spurlock Decl. at ¶ 4 (same); Acosta Decl. at ¶¶ 7-8 (same); Musante Decl. at ¶¶ 23-24 (same); Louis Decl. at ¶ 7 (same); Vega Decl. at ¶¶ 5-6 (same); Jackson Decl. at ¶ 6 (same); Mros Decl. at ¶ 9 (same); Declaration of Liana Castano, Ex. 18 at ¶¶ 4-6 (Krome Service Processing Center and Glades County Detention Center) (same); Declaration of Rolney Rodriguez, Ex. 19 at ¶¶ 5-6 (Catahoula and Richwood Correctional Centers); Huron Decl. ¶¶ 7, 18 (same); Declaration of Cardell Smith, Ex. 20 at ¶¶ 5-7 (Baker and Wakulla County Detention Centers); Declaration of Juan Lopez Vega, Ex. 21 at ¶¶ 5-6 (Broward Transitional Center).

immediately after issuance of the PI. *See* ECF No. 150 at 6. ICE has fully complied with the requirement that it conduct a custody redetermination for each detainee with a qualifying risk factor and that it conduct a custody redetermination for new or additional subclass members within five days of coming into ICE custody. *See* Johnson Decl. ¶ 34; Rivera Decl. ¶ 28.

Moreover, Plaintiffs' contention that the custody redetermination process lacks meaningful review is unavailing. Again, nothing in the PI Order requires ICE to provide detainees or their advocates with a decision on, or confirmation of, the custody redetermination, nor does anything require that ICE identify the factors considered or the officer's rationale and analysis. ECF No. 132 at 38-39; ECF No. 150 at 6. That some offices convey the custody redetermination decision quickly or not at all is not evidence, much less clear and convincing evidence, of a violation of the PI Order. *See* Pls.' Mot. to Enforce at 18. Similarly, that different ICE offices permit submission of custody redetermination requests, and that there are variations in these practices, is not evidence that Defendants are in violation of the PI Order. *See* Pls.' Mot. to Enforce at 20. While there may be variances in the way that some offices handle these requests, and potentially issues related to the handling of a particular request, *see* Pls.' Mot. to Enforce at 21, such information is not clear and convincing evidence of a nationwide PI violation.

Furthermore, that a certain number of subclass members have or have not been released is not evidence of a violation of the PI Order. The PI Order requires ICE to conduct timely custody redeterminations, it does not require the outright release of any subclass members or a certain number of subclass members. *See* PI Order at 38. In addition, Plaintiffs' arguments concerning the release lists produced in discovery are off base. ICE is unable to identify detainees who were released solely based on the custody redetermination under the *Fraihat* PI Order. Everyone released after the PI Order was issued in this case would have received a *Fraihat* custody redetermination, regardless of

the mechanism or condition for release, such as parole, order of recognizance, release on bond, or order of supervision, etc. *See* Johnson Decl. ¶ 34; Rivera Decl. ¶ 28.

Plaintiffs' claim that the number of subclass members is likely "much higher" is similarly off base and does not demonstrate noncompliance with the PI Order. Specifically, Plaintiffs argue that the absence of named plaintiffs Jose Baca-Hernandez and Alex Hernandez from the list of current detainees indicates that Defendants are violating the PI Order. Not so. Information pertaining to Mr. Baca-Hernandez and Mr. Hernandez does not appear on the spreadsheets because it is protected by statute and therefore redacted under the terms of the protective order in this case. *See* ECF No. 154 at 3, Stipulated Protective Order ("Defendants also note that disclosure in discovery in this action may involve information covered by various statutory and regulatory confidentiality provisions that may limit or prohibit their disclosure in this action."). Plaintiffs also argue that Defendants have violated the PI Order by failing to include named plaintiff[2] Ruben Mencias Soto on the list of current detainees with risk factors. However, he does not appear on the list of detainees with risk factors because it was determined, after the medical provider reviewed Mr. Mencias Soto's medical file, that he did not have one of the court-identified risk factors.[3]

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[2] Mr. Mencias Soto is a Named Plaintiff in the Complaint in this case, but he is not listed as a Named Plaintiff for purposes of the PI. *See generally* Compl., ECF No. 1.

[3] During the meet and confer process, Plaintiffs failed to raise the issue of certain named plaintiffs and class members not appearing on the spreadsheets of current detainees, even though they had received that information in discovery. This is an example of one of several issues that Plaintiffs could have raised during the meet and confer process so that the parties could have resolved more issues without unnecessarily occupying the time of the Court. *See Stewart v. San Luis Ambulance, Inc.*, No. CV1309458BROSSX, 2015 WL 12681650, at *1 (C.D. Cal. Aug. 7, 2015) ("The purpose of Local Rule 7-3 is to foster the informal resolution of legal issues without court intervention and to permit the parties to brief whatever issues remain in a thoughtful, concise, and useful manner.") (internal quotation marks omitted).

Plaintiffs further contend that Defendants' position regarding the effect of mandatory detention pursuant to 8 U.S.C. § 1226(c) is a violation of the PI Order concerning custody redeterminations for at risk subclass members. Because the PI Order does not require the release of any particular detainee or group of detainees, ICE's position that detainees subject to mandatory detention may not be released after a *Fraihat* custody redetermination is not a violation of the PI Order. ICE's docket review guidance, issued April 4, 2020, and incorporated into the revised PRR, provides that while the presence of a risk factor should be a "significant discretionary factor" weighing in favor of release, noncitizens detained pursuant to 8 U.S.C. § 1226(c) "may not be released in the exercise of discretion." ECF No. 121-4 at 2. ICE must detain a noncitizen subject to detention under § 1226(c) for having committed or having been convicted of certain criminal offenses, and such noncitizens are not eligible for discretionary release. *See Hamilton v. Acosta*, No. 1:20-cv-21318, 2020 WL 3035350, at *1 (S.D. Fla. June 4, 2020), *adopting report and recommendation* 2020 WL 3036782 (May 8, 2020) ("However, a mandatory detainee would not be eligible for release even if their detainment violated his or her Fifth and Eighth Amendment rights. . . . Therefore, due to his mandatory detainee status, he is not eligible for the relief he seeks."); *see also Gayle v. Meade*, No. 20-21553, 2020 WL 2086482, at *7 (S.D. Fla. Apr. 30, 2020) ("mandatory detainees" are not eligible for transfer even though the court found confinement for detainees with severe medical conditions violated their Fifth and Eighth Amendment rights).

Moreover, Plaintiffs' contention that Defendants violate the PI Order by applying an "unnecessarily stringent" definition of "severe psychiatric illness" to that particular risk factor is unavailing. Pls.' Mot. to Enforce at 22. The PI Order did not set forth a definition of "severe psychiatric illness," nor did it analyze what this may or may not include. *See* PI Order at 21 & n.20, 22 & n.21. Thus, it was reasonable for ICE to adopt the definition borne out of the litigation in *Franco-Gonzalez v. Holder*, 2013 WL 8115423 (C.D. Cal. 2013). Plaintiffs contend that post-traumatic stress disorder, depression, and anxiety should

be included in the definition of "severe psychiatric illness"; however, they fail to establish why such common mental illnesses are sufficiently severe to qualify as "severe psychiatric illnesses." Pls. Mot. to Enforce at 22. Finally, neither Plaintiffs nor their purported expert—the source of Petitioners' proposed list of risk factors—ever sought any greater specificity for "severe psychiatric illness" as a risk factor in their original motion for preliminary injunction. *See* Pls.' Mot. for Prelim. Injunction, ECF No. 81 at 6 & n. 9; Declaration of Dr. Carlos Franco Paredes, ECF No. 81-12 at 2-3. In the absence of such specificity then, they should not be permitted to seek a contempt order against Defendants now.

b. Plaintiffs' Contentions Concerning The Revised PRR Are Not Clear And Convincing Evidence Of A Violation Of The PI Order

Plaintiffs have not demonstrated any violation of the PI Order concerning the revised PRR.[4] Plaintiffs submit a wish list of terms they believe the revised PRR should include along with supporting declarations from purported experts. *See* Pls.' Mot. to Enforce at 5, 13-14 (arguing that ICE should have included in the PRR terms addressing, *inter alia*, testing and corresponding protocols, transfers, screening, medical isolation, proper use of disinfectant, and release of all people with risk factors); *see also* ECF No. 172-10, Third Supplemental Declaration of Dr. Homer Venters at ¶¶ 7, 43-47; Declaration of Susi

[4] The Court should not consider Plaintiffs' allegations regarding the revised PRR because Plaintiffs never met and conferred regarding the allegedly deficient contents of it—indeed, Plaintiffs' motion was filed two days after publication of the revised PRR. *See* Revised PRR. Further, Plaintiffs' complaint about the timing of issuance of the revised PRR, *see* Pls.' Mot. at 1 (accusing Defendants of deploying an "ambush strategy"), lacks merit. Defendants informed Plaintiffs that the revised PRR was in progress and that the agency was actively working through the revisions, *see* Fox Decl. Ex. 2 at 4, as reflected in Defendants' discovery responses, *see* Vick Decl. at ¶ 2. The purpose of these rules is to aide Defendants by informing them of Plaintiffs' contentions and aide the Court by giving the parties an opportunity to resolve disputes without seeking redress from the Court on every single issue. *See Stewart*, 2015 WL 12681650, at *1 ("The purpose of Local Rule 7-3 is to foster the informal resolution of legal issues without court intervention and to permit the parties to brief whatever issues remain in a thoughtful, concise, and useful manner." (internal quotation marks omitted)).

Vassallo, M.D. at ¶¶ 22-34. That wish list, however, does not establish Defendants' noncompliance with the PI Order.

The PI Order directed Defendants to revise the PRR to "define the minimum acceptable detention conditions for detainees with the Risk Factors." PI Order at 38. By issuing a revised PRR, Defendants satisfied the injunction. The "PRR builds upon previously issued guidance and sets forth specific mandatory requirements to be adopted by all detention facilities, as well as recommended best practices, to ensure that detainees are appropriately housed and that available mitigation measures are implemented during this unprecedented public health crisis." Revised PRR at 108. Further, the "PRR has accordingly been updated to define the 'minimum acceptable detention conditions for detainees with risk factors.'" *Id.* at n.2. ICE's revised PRR includes, *inter alia*, the following revisions in compliance with the PI Order:

> 1) New intakes into ICE custody at dedicated ICE detention facilities will be evaluated within five days to determine if the detainee falls within the populations identified by the CDC as potentially being at higher risk for serious illness from COVID-19 and/or the *Fraihat v. ICE* subclasses.
> 2) Detainees at ICE dedicated facilities who claim to fall within the populations identified by the CDC as potentially being at higher risk for serious illness from COVID-19 should be evaluated within five days, and the ERO Field Officer Director and Field Medical Coordinator notified within 12 hours of determining whether the detainee meets the criteria.
> 3) The ERO PRR identifies additional populations potentially at higher risk for serious illness from COVID-19 (e.g., severe psychiatric illness, pregnancy, autoimmune diseases, and persons of all ages with a physical or mental impairment that substantially limits one or more major life activities).
> 4) If isolating of ill detainees as a group is unavoidable, make all possible accommodations until transfer occurs to prevent transmission of other infectious diseases to the higher-risk individual (e.g., allocate more space for a higher-risk individual within a shared isolation room).
> 5) Compliance measures are added to explain how ICE will ensure ICE detention facilities comply with ERO PRR requirements.

Revised PRR at 106, 124. As with ICE's original PRR, ICE developed this guidance in consultation with the CDC, and ICE will continue to revise and update its procedures as new and additional information becomes available. *See id.* at 108; *see also* Johnson Decl. at ¶¶ 14, 27, 38 ("ICE will continue to update its PRR guidance as additional information and best practices are identified throughout this pandemic."). By issuing the revised PRR, ICE has substantially complied with the PI Order. *See In re Dual-Deck*, 10 F.3d at 695. Thus, Plaintiffs have failed to show by clear and convincing evidence that such revisions are a violation of the PI Order.

Moreover, the PI Order did not require ICE to include in its supplemental PRR provisions concerning any of the particular aspects of detention that Plaintiffs now demand must be addressed therein. *See* PI Order at 38. Instead, the PI Order left the minimum standard and aspects of detention for ICE to create and implement at its own discretion. Without more description of any required conduct, this provision of the PI Order is not enforceable by contempt. *See Gates*, 98 F.3d at 468 ("If an injunction does not clearly describe prohibited or required conduct, it is not enforceable by contempt."). Plaintiffs attempt to treat the revised PRR as a catchall for items not specifically addressed in the PI and as requiring ICE to address any other aspect of detention that they raise during this litigation as a violation of the PI. However, the long list of issues that Plaintiffs complain about in their Motion, to include testing, transfers, medical isolation, and use of disinfectants, are not issues specifically addressed or even mentioned in the PI Order, and therefore, ICE should not be held in contempt of the PI Order for not including those topics in the PRR. *See* Pls.' Mot. to Enforce at 5, 13-14.

Plaintiffs contend throughout their motion that Defendants are in violation of the PI Order to "promptly" issue a supplemental PRR. *See* Pls.' Mot. to Enforce at 1, 4-5. But ICE's issuance of the revised PRR moots that argument, and Defendants are not liable for contempt merely because Plaintiffs' interpretation of the otherwise undefined term "promptly" differs from Defendants'. Plaintiffs further contend that "the exponentially

increasing rate of COVID-19 cases in ICE detention confirms the dire consequences of Defendants' unreasonable delays." Pls. Mot. to Enforce at 4. However, any increase in coronavirus cases is not evidence that ICE has violated the PI Order or that modification of the PI Order is warranted. Indeed, coronavirus cases have spiked in different areas of the country and in other correctional settings, but detention facilities that have had positive cases have also seen rates of infection go down or eliminate COVID-19 in the facility altogether. *See* "ICE Detainee Statistics," U.S. Immigration and Customs Enforcement, https://www.ice.gov/coronavirus (last visited July 7, 2020) (chart showing confirmed cases currently under isolation or monitoring compared with total confirmed case reflecting which facilities have seen a decrease in cases, such as Pulaski County and Prairieland Detention Facility); *see, e.g.*, Edwards Decl. 20 (as of June 29, 2020, there have been no new positive test results in six weeks, and a total of 17 ICE detainees have tested positive for COVID-19).

Plaintiffs also contend that a DHS OIG report confirms the purported dangers posed by Defendants' alleged noncompliance with the PI Order in this case. Pls.' Mot. to Enforce at 5; Fox Decl., Ex. 17. They note some of the OIG's conclusions, Pls.' Mot. to Enforce at 5, but ignore other portions of the report in which the OIG credited the efforts ICE has taken to prevent and mitigate the pandemic's spread in detention facilities, noted that the facilities have contingency plans to ensure continued operations and concluded that "almost all facility personnel stated they were prepared to address COVID-19." Fox Decl., Ex. 17 at 163. The OIG also explained that the "report's limited objective and scope, given it is based on a survey, was not intended to provide an in-depth assessment of ICE's ability to manage the pandemic in its detention facilities." *Id.* at 178. Not only did the OIG indicate that a more in-depth report was forthcoming, but the OIG explained that its office "did not verify the accuracy of survey responses, requested a shorter comment period, and made no

recommendations." *Id.* Accordingly, Plaintiffs have not shown that the revised PRR violates the PI Order.

c. Plaintiffs' Have Not Shown Clear and Convincing Evidence Of A Violation Of The PI Order Concerning Monitoring Of The PRR

ICE continues to monitor and revise its procedures in response to the evolving coronavirus pandemic, and Plaintiffs have not and cannot demonstrate clear and convincing evidence of a violation of the PI Order in this respect. In the revised PRR, ICE added a section explaining how ICE will conduct bi-weekly spot checks at detention facilities during the COVID-19 pandemic. Specifically, the revised PRR provides:

> To ensure that detention facilities comply with the detention requirements set forth in the ERO PRR, ICE will conduct bi-weekly spot checks at over 72-hour ICE detention facilities during the COVID-19 pandemic. Upon identification of a deficiency, ICE will provide written notice to the facility and allow seven business days for submission of a corrective action plan to ICE for approval. Life/safety issues identified by ICE will be corrected during the COVID-19 spot checks, if possible, or the facility will be required to submit a corrective action plan within three business days.

Indeed, ICE has already begun conducting these spot checks, and, as Plaintiffs' acknowledge, Defendants have produced numerous documents relating to them as part of the discovery into ICE's compliance with the PI Order in this case. *See* Fox Decl. at ¶ 3, Exs. 9-12, 15-16 (attaching as exhibits spot check questionnaires for several facilities); *see also* Johnson Decl. at ¶ 36.

That the questionnaires do not collect information concerning certain topics, such as testing, does not mean that Defendants are in violation of the PI Order. And Plaintiffs' conclusory allegations about ICE's monitoring of the PRR certainly are not clear and convincing evidence of a violation. Defendants have produced over a thousand pages of checklists and questionnaires that ICE completed over the past several weeks for numerous facilities as part of the agency's efforts to comply with the PI Order that it monitor and

enforce the PRR. *See* Vick Decl. at ¶ 2. Therefore, Defendants have substantially complied with the PI Order with respect to monitoring and enforcement.

IV. Plaintiffs' Requests Amount To A Request For A Modification Of The PI Order

While Plaintiffs include the legal standards for modification in their motion, they never explicitly seek modification in their motion or explain which topic may qualify as a modification. *See generally* Pls. Mot. to Enforce. Any argument not explicitly set forth in Plaintiffs' Motion or subsequent specific request for modification should be deemed waived. *See Greenwood v. FAA*, 28 F.3d 971, 977 (9th Cir. 1994) ("We will not manufacture arguments for an appellant, and a bare assertion does not preserve a claim, particularly when, as here, a host of other issues are presented for review."); *see also Zamani v. Carnes*, 491 F.3d 990, 997 (9th Cir. 2007) ("The district court need not consider arguments raised for the first time in a reply brief"); *Klein v. City of Laguna Beach*, 983 F. Supp. 2d 1162, 1169–70 (C.D. Cal. 2013) ("For the first time in his reply brief, Mr. Klein raises a third basis in support of his request for attorneys' fees: California's catalyst theory. Because this theory was not raised in Mr. Klein's opening brief, the Court declines to consider it"); *Hill v. Opus Corp.*, 464 B.R. 361, 371 n.34 (C.D. Cal. 2011) (refusing to consider an argument raised for the first time in reply). Even if Plaintiffs' request for modification of the PI is not waived, the Court lacks jurisdiction to modify the PI according to Plaintiffs' proposed terms because such modification would alter the status quo concerning issues on appeal. Finally, even if the Court has jurisdiction to modify the PI Order, Plaintiffs fail to justify the need for modification.

a. The Court Does Not Have Jurisdiction To Modify The Injunction

Here, the Court issued the PI Order on April 20, 2020, and Defendants timely filed a notice of appeal of the PI Order and class certification order on June 19, 2020. *See* ECF No. 1-1, *Fraihat, et al. v. ICE, et al.*, No. 20-55634 (9th Cir.). Thus, the Court continues to have jurisdiction to enforce the PI Order, but only in a manner that maintains the status

quo. *See Nat. Res. Def. Council*, 242 F.3d at 1166; *McClatchy Newspapers*, 686 F.2d at 734. The ways in which Plaintiffs contend the PI Order must be enforced—to include incorporating a presumption of release and mandates concerning testing, transfers, medical isolation, and use of disinfectants among other topics—are all aspects of ICE detention that are not currently included in the PI Order. To modify the PI Order now, after a notice of appeal has been filed, to include any one of Plaintiffs' new requests would alter the status quo and further delve into two issues on appeal—the propriety of class certification and the merits of ICE's response to COVID-19. ICE has already gone to great lengths to quickly revamp its procedures concerning detainees who are medically vulnerable to COVID-19, custody redeterminations for at risk detainees, and publication of a supplemental PRR to comply with this Court's PI Order. Any new requirements unrelated to the provisions of the PI Order would ultimately alter the status quo.

b. Even If The Court Finds Jurisdiction, There Have Been No Significant Changes In Law Or Fact To Justify Modifying The Injunction

ICE continues to monitor and revise its response to the evolving coronavirus pandemic, and Plaintiffs have failed to meet their burden of establishing a "significant change in facts or law" that warrants modification or revision of the PI Order. *See Rufo*, 502 U.S. at 383. Notwithstanding the delay in revising the PRR, there is no evidence that Defendants have failed to comply or that compliance is long-lasting or ongoing such that modification is warranted. Defendants' response here shows that Plaintiffs' motion is woefully unsupported.

i. Modification To Include A Presumption Of Release Is Not Warranted

By citing to the legal standard for modification in a footnote, Plaintiffs argue that the Court should modify the PI Order to include a presumption of release to achieve the purposes of the original injunction. *See* Pls.' Mot. to Enforce at 24 & n.29. Release is not an appropriate remedy in this case, which primarily involves conditions-of-confinement

claims under the Fifth Amendment. The appropriate remedy, if any, to Plaintiffs' conditions-of-confinement claims is "a judicially mandated change in conditions," not release. *Crawford v. Bell*, 599 F.2d 890, 891-92 (9th Cir. 1979). To determine whether a condition of detention merits relief under the Fifth Amendment, courts look to Eighth Amendment standards. *See Keller v. Warden*, No. 1:16-cv-00613-EPG-PC, 2016 WL 2866434, *4 (E.D. Cal. May 17, 2016). This in turn requires the Court to look at each challenged condition and the reason or cause behind it. *Wright v. Rushen*, 642 F.2d 1129, 1133 (9th Cir. 1981), (citing *Trop v. Dulles*, 356 U.S. 86, 101, (1958), *quoted in Estelle v. Gamble*, 429 U.S. 97, 102, (1976)); *Spain v. Procunier*, 600 F.2d 189, 196 (9th Cir. 1979); *see also Keller* at *3. In identifying a constitutional violation, the Court "must identify specific conditions that fail to meet [the Constitution's] requirements." *Hoptowit v. Ray*, 682 F.2d 1237, 1247 (9th Cir. 1982). "[E]qually importantly, in tailoring a proper remedy, [a court] must analyze each claimed violation in light of these requirements." *Id.* Thus, "only the specific conditions that violate the Constitution may be remedied, and *the remedy may be only so much as is required to correct the specific violation*." *Id.* (emphasis added).

In this respect, Plaintiffs argue in a conclusory manner that Defendants' purported "slow-walk approach" and "lax enforcement of performance standards" warrants a modification of the PI Order to include a presumption of release for custody redeterminations. Pls.' Mot. to Enforce at 24. The Court should reject that argument. First, such a requirement would fundamentally alter the status quo, and the Court does not have jurisdiction to make such a modification given the pending appeal of the PI Order in this case. *See Nat. Res. Def. Council*, 242 F.3d at 1166; *McClatchy Newspapers*, 686 F.2d at 734. Second, none of Plaintiffs' arguments or evidence submitted in support of their motion supports a modification of the PI Order to include a presumption of release. There has been no significant change in the facts or law concerning this litigation to justify such a fundamental change to the relief granted in the PI Order because ICE has been responding, and continues to respond, to the evolving nature of the pandemic. *See, e.g.*, Chamberlain

Decls.; Beckhelm Decl.; Russo Decl.; Spurlock Decl.; Musante Decl.; Jackson Decl.; Mros Decl.; Davies Decl.; Sterling Decl.; Ortiz Decl.; Edwards Decl.; Acosta Decl.; Huron Decl.; Louis Decl.; Pitman Decl.; White Decl.; *see also* Ex. 24, Demonstrative Chart (rebutting allegations concerning conditions of detention). In addition, many *Fraihat* subclass members are already parties to other litigation, including other class actions, seeking their release from immigration detention. *See Munoz v. Wolf*, No. 5:20-CV-00625 TJH (SHKx) (C.D. Cal. Apr. 2, 2020) (individual habeas case in which *Fraihat* Named Plaintiff Munoz was ordered released); *Fraihat v. Wolf*, EDCV 20-00590 TJH (KSx) (C.D. Cal. Mar. 30, 2020) (individual habeas case in which *Fraihat* named plaintiff Fraihat was ordered released); *see also Roman, et al. v. Wolf*, 5:20-cv-00768 (C.D. Cal. June 19, 2020) (order in habeas class action brought on behalf of immigration detainees, some of whom are *Fraihat* subclass members, at the Adelanto ICE Processing Center allowing for a process for the filing and consideration of individualized bail applications for *Roman* class members); *A.S.M. v. Warden*, --- F. Supp. 3d ---, 2020 WL 2988307 (M.D. Ga. June 3, 2020) (denying release of a group of habeas petitioners, including Named Plaintiff Aristotles Sanchez Martinez).

Plaintiffs have not shown a significant change in the facts or law that would warrant such a fundamental modification to the PI Order in this case. ICE is complying with the mandate that it conduct custody redeterminations for subclass members. *See, e.g.*, Johnson Decl. ¶ 34; Rivera Decl. ¶ 28; Pitman Decl. at ¶¶ 41-42; Chamberlain Decl. at ¶¶ 36-37; Beckhelm Decl. at ¶¶ 11, 24; Spurlock Decl. at ¶ 4; Acosta Decl. at ¶¶ 7-8; Musante Decl. at ¶¶ 23-24; Louis Decl. at ¶ 7; Vega Decl. at ¶¶ 5-6; Jackson Decl. at ¶ 6; Mros Decl. at ¶ 9; Castano Decl. at ¶¶ 4-6 ; Rodriguez Decl. at ¶¶ 5-6; Huron Decl. ¶¶ 7, 18; Smith Decl. at ¶¶ 5-7; Vega Decl. at ¶¶ 5-6. Furthermore, ICE has refuted many of the conditions of confinement allegations in Plaintiffs' declarations, rendering these allegations and declarations, which were already based entirely on hearsay, less credible and entitled to little if any weight. *See, e.g.*, Chamberlain Decls.; Beckhelm Decl.; Russo Decl.; Spurlock

Decl.; Musante Decl.; Jackson Decl.; Mros Decl.; Davies Decl.; Sterling Decl.; Ortiz Decl.; Edwards Decl.; Acosta Decl.; Huron Decl.; Louis Decl.; Pitman Decl.; White Decl.; *see also* Ex. 24, Demonstrative Chart (rebutting allegations concerning conditions of detention). Therefore, Plaintiffs' motion falls woefully short of meeting the standard for such a fundamental modification of the PI Order in this case where relief in the form of release from detention is inappropriate.

ii. Modification To Include Terms Relating To Testing, Transfers, Medical Isolation, and Use of Disinfectants Is Not Warranted

In addition to the jurisdictional limitations on modification given the pending appeal, the factual record supporting modification of the injunction by adding provisions regarding testing, transfers, medical isolation, and use of disinfectants—even if permissible—is woefully inadequate. First, the PI Order does not require anything specific to these topics, and therefore any revision of the PI Order to include these topics would impermissibly modify it. Second, ICE is acting and already has procedures in place to address testing, transfers, and medical isolation. In light of what ICE is already doing in these areas, there is no factual basis upon which Plaintiffs have justified the need for modification of the injunction.

With respect to testing, ICE has tested nearly 46% of the ICE detained population—far exceeding the 19% that BOP has tested and the testing of many state institutions. Johnson Decl. at ¶ 21. ICE has recently gained access to additional rapid testing machines and has expanded its lab-based testing capabilities at many facilities. *Id.* at ¶¶ 12, 21. Beginning June 4, 2020, all ICE IHSC-staffed facilities began testing detainees during the intake screening process for COVID-19. *Id.* at ¶ 16. Detainees are medically isolated using CDC criteria based on symptoms and test results, and detainees are released from isolation to general population only after clearing through either a testing or time-based method. *Id.* ICE adheres to CDC guidance as it adapts to the recommendations for universal testing and ICE has initiated several pilot efforts, in conjunction with its partners, to test larger

groups of detainees at select facilities in order to evaluate the operational factors of expanded testing. *Id.* at ¶ 18. As testing capabilities continue to improve throughout the United States, ICE continues to expand its testing of detainees to include expanded testing of new intakes, saturation testing, and testing at transfer, removal and/or release where possible at various locations and continues to work with service providers to make improvements in this area. *Id.* at ¶ 20.

With respect to transfers, ICE confirms prior to transfer that the detainee does not pose a threat of illness to others and notifies local health authorities of those detainees who require ongoing monitoring. *Id.* at ¶ 8; Rivera Decl. at ¶ 8. Only those who have been cleared of COVID-19 by either a test or time-based protocol may be transferred. Johnson Decl. at ¶ 9. Most ICE transfers are the result of 1) transferring detainees from short-term under 72-hour holding facilities after arrest, to longer-term detention facilities; 2) transferring to increase social distancing opportunities or because of a lack of new intake capability in a particular geographical location; and 3) to stage individuals prior to their departure from the United States. *Id.* at ¶ 10. ICE continues to update its COVID-19 transfer checklist and PRR guidance as additional information and best practices are identified throughout this pandemic. *Id.* at ¶ 14.

With respect to medical isolation, detainees who are positive for COVID-19 and symptomatic are medically isolated, preferably in single cells, in order to prevent the spread of infectious diseases within the general population. *Id.* at ¶ 22. Facilities have been forced to utilize all their available housing space as needed to accommodate CDC requirements for medical isolation. Rivera Decl. at ¶ 20. A health assessment is provided to detainees prior to placement in medical isolation or cohorting and sick call is offered on a daily basis. Johnson Decl. at ¶ 24. In addition, monitoring is completed once or twice a day to include vital signs and oxygen saturation, for symptomatic COVID-19 positive or exposed cases. *Id.* at ¶ 24. The use of segregated housing units may be necessary at times, depending on the circumstances at a facility to ensure that detainees are properly isolated, quarantined,

or otherwise protected from contracting or spreading the disease. *Id.* at ¶ 26. ICE continues to update its policies and guidance as additional information and best practices are identified to ensure that use of segregation is used only as a last resort, and when no other options are available. *Id.* at ¶ 27. ICE will explore options for making the segregation unit environment more akin to medical isolation in locations where this is identified as an issue. *Id.* ICE anticipates that future revisions of the PRR will include updates in this area. *Id.* In instances where administrative segregation must be used to medically isolate or quarantine an individual, medical professionals routinely visit and make rounds in the area as they would the medical housing unit and the services for these individuals are to be consistent with those in general population except for safety measures that may be needed to prevent or reduce the spread of the virus. *Id.* at ¶ 28.

Finally, with respect to the use of disinfectants or cleaning chemicals that Plaintiffs allege may be harmful, ICE is investigating those claims, which are a subject of other litigation in this District. *See Moreno, et al. v. U. S. Dep't. of Homeland Security*, No. 5:20-01136-DOC (JDEx) (C.D. Cal.); *Goodwin v. Wolf, et al.*, No. 5:20-01185-TJH (pdx) (C.D. Cal.). However, nowhere in the motion for preliminary injunction, or in the complaint in this case, do Plaintiffs raise any factual allegations, propound legal arguments, or seek remedies regarding the allegedly improper or harmful use of cleaning chemicals. *See generally* PI Motion; Compl. Nor do they allege any injury or punitive conditions of confinement arising from the use of such cleaning chemicals. Where such allegations and claims for relief are wholly absent from the pleadings, Plaintiffs cannot now argue that this case is the appropriate place for allegations regarding the use of cleaning chemicals in ICE detention facilities to be heard—as there is no relationship to these allegations and the underlying complaint or PI Motion. *See, e.g., United States ex rel. Giles v. Sardie*, 191 F. Supp. 2d 1117, 1127 (C.D. Cal. 2000); *see also Pac. Radiation Oncology, LLC v. Queens Med. Ctr.*, 810 F.3d 631, 636 (9th Cir. 2015) ("there must be a relationship between the injury claimed in the motion for injunctive relief and the conduct asserted in the underlying

complaint"); *Colvin v. Caruso*, 605 F.3d 282, 300 (6th Cir. 2010) (plaintiff "had no grounds to seek an injunction pertaining to allegedly impermissible conduct not mentioned in his original complaint"). Further, this claim does not fall within the claims at issue in the PI Order, *see generally* PI Order. Thus, modification of the Court's injunction is not justified by any change in the law or facts.

V. There Is No Basis For Appointment Of A Special Master

The Court should deny Plaintiffs' request for the appointment of a Special Master "to monitor Defendants' future compliance and provide real-time reports that will inform the Court's efforts to protect all subclass members from grave harm." Pls.' Mot. to Enforce 3. While Federal Rule of Civil Procedure 53(a)(1)(C) outlines the procedures for appointing a special master, a court "should appoint a special master only in exceptional circumstances." *Burlington N. v. Dep't of Revenue*, 934 F.2d 1064, 1071 (9th Cir. 1991). Courts have found exceptional circumstances in cases involving complex litigation or where there have been problems with compliance with court orders. *See United States v. Suquamish Indian Tribe*, 901 F.2d 772, 775 (9th Cir. 1990); *see Burlington N.*, 934 F.2d at 1071; *see also Local 28 of Sheet Metal Workers' Int'l Ass'n v. E.E.O.C.*, 478 U.S. 421, 482 (1986) (appointing a Special Master and noting the parties' "established record of resistance to prior state and federal court orders"). The Court's decision to appoint a master "must consider the fairness of imposing the likely expenses on the parties and must protect against unreasonable expense or delay." Fed. R. Civ. P. 53(a)(3). "Before appointing a master, the court must give the parties notice and an opportunity to be heard. Any party may suggest candidates for appointment." Fed. R. Civ. P. 53(b)(1).

Here, Plaintiffs have failed to show that the appointment of a Special Master is necessary due to the complexity of this litigation or a history of noncompliance with the PI Order. *See Suquamish Indian Tribe*, 901 F.2d at 775. Specifically, Plaintiffs have not established that the nature of the factual complexities in this case require special master intervention. While this case is factually complex given the number of detention facilities

that vary in certain respects and given the number of class members who vary in medical issues and disabilities, this case does not possess the technical or legal complexities found in multidistrict or patent litigation where special masters have been found to be particularly useful. Thus, Plaintiffs have not shown how a special master here would provide any additional efficiencies that would not be duplicative of a district or magistrate judge.

Nor is there a history of noncompliance in this case. Contrary to Plaintiffs' assertions, Defendants promptly began taking action to comply with the PI Order. Defendants identified, tracked, and made timely custody redeterminations for all ICE detainees with risk factors and issued the revised PRR. *See, e.g.*, Johnson Decl. ¶ 34; Rivera Decl. ¶ 28; Pitman Decl. at ¶¶ 41-42; Chamberlain Decl. at ¶¶ 36-37; Beckhelm Decl. at ¶¶ 11, 24; Spurlock Decl. at ¶ 4; Acosta Decl. at ¶¶ 7-8; Musante Decl. at ¶¶ 23-24; Louis Decl. at ¶ 7; Vega Decl. at ¶¶ 5-6; Jackson Decl. at ¶ 6; Mros Decl. at ¶ 9; Castano Decl. at ¶¶ 4-6 ; Rodriguez Decl. at ¶¶ 5-6; Huron Decl. ¶¶ 7, 18; Smith Decl. at ¶¶ 5-7; Vega Decl. at ¶¶ 5-6. Revised PRR. ICE has also instituted a monitoring and enforcement program whereby Detention Service Managers and Detention Standards Compliance Officers conduct bi-weekly spot checks or inspections at detention facilities to monitor compliance with the revised PRR and CDC guidelines. *See* Revised PRR at 110-111; *see also* Johnson Decl. ¶ 36. As previously discussed, individual facilities, depending upon the specific circumstances impacting a facility—to include court orders—and individual facility resources and physical structure, have implemented numerous measures to protect the health and wellbeing of detainees and to respond to the threat of COVID-19. *See, e.g.*, Chamberlain Decl. (Pine Prairie); Beckhelm Decl.; Russo Decl.; Spurlock Decl.; Musante Decl.; Jackson Decl.; Mros Decl.; Davies Decl.; Sterling Decl.; Ortiz Decl.; Edwards Decl.; Acosta Decl.; Huron Decl.; Louis Decl.; Pitman Decl.; White Decl.; *see also* Ex. 24, Demonstrative Chart (rebutting allegations concerning conditions of detention).. In fact, Defendants have produced to Plaintiffs, and continue to produce, information and

documents concerning Defendants' compliance with the PI Order, in accordance with the Court's discovery order. *See* ECF No. 150.

Additionally, neither Plaintiffs nor the Court have indicated that the Court cannot effectively or timely address the issues in this case, thereby saving the parties the added expense of a special master. Fed. R. Civ. P. 53(a)(1)(C). Although Plaintiffs view the publication of the revised PRR as an inappropriate delay, it is undisputed that the revised PRR is published, and Plaintiffs have not demonstrated how a Special Master would assist with the development of ICE's internal guidance. Thus, Plaintiffs have failed to show any exceptional circumstances that would warrant the Court's appointment of a special master and Plaintiffs' request should be denied.

CONCLUSION

For these reasons, Defendants respectfully request that the Court deny Plaintiffs' Motion to Enforce the PI Order.

DATED: July 8, 2020

Respectfully Submitted,

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Acting Assistant Attorney General

WILLIAM C. PEACHEY
Director

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants*.	Case No. 5:19-01546-JGB(SHKx) **DECLARATION OF LINDSAY M. VICK IN SUPPORT OF DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION TO ENFORCE THE PRELIMINARY INJUNCTION** **Before The Honorable Jesus G. Bernal** **Hearing Date:** July 17, 2020 **Hearing Time:** 2:00 p.m.

DECLARATION OF LINDSAY M. VICK

I, LINDSAY M. VICK, do hereby declare and state as follows:

1. I am a Trial Attorney with the U.S. Department of Justice, and am assigned to handle the instant case. As such, I have personal knowledge of the following facts and, if called as a witness, I could and would testify competently thereto.
2. Defendants have produced approximately 1,945 pages of documents in response to the Court's discovery order, ECF No. 150. This production includes many checklists and questionnaires that accompany ICE's monitoring of facility compliance with the PRR. Additionally, Defendants have produced a privilege log indicating the drafts of documents that have been withheld from production on the basis of privilege.
3. Exhibit 1 is a true and correct copy of the Declaration of Tae D. Johnson (Enforcement and Removal Operations Headquarters);
4. Exhibit 2 is a true and correct copy of the Declaration of Gary Chamberlain;
5. Exhibit 3 is a true and correct copy of the Declaration of Kelley Beckhelm;
6. Exhibit 4 is a true and correct copy of the Declaration of Michael Russo;
7. Exhibit 5 is a true and correct copy of the Declaration of Scott Spurlock;
8. Exhibit 6 is a true and correct copy of the Declaration of Patrick Musante;
9. Exhibit 7 is a true and correct copy of the Declaration of Scot Jackson;
10. Exhibit 8 is a true and correct copy of the Declaration of Stephanie Mros;
11. Exhibit 9 is a true and correct copy of the Declaration of Greg Davies;
12. Exhibit 10 is a true and correct copy of the Declaration of George Sterling;
13. Exhibit 11 is a true and correct copy of the Declaration of Alfaro Ortiz;
14. Exhibit 12 is a true and correct copy of the Declaration of Ron Edwards;
15. Exhibit 13 is a true and correct copy of the Declaration of Juan Acosta;
16. Exhibit 14 is a true and correct copy of the Declaration of Andrew Huron;
17. Exhibit 15 is a true and correct copy of the Declaration of Anthony Louis;
18. Exhibit 16 is a true and correct copy of the Declaration of Ada Rivera;
19. Exhibit 17 is a true and correct copy of the Declaration of Bryan Pitman;

20. Exhibit 18 is a true and correct copy of the Declaration of Melanie White;

21. Exhibit 19 is a true and correct copy of the Declaration of Liana Castano;

22. Exhibit 20 is a true and correct copy of the Declaration of Rolney Rodriguez;

23. Exhibit 21 is a true and correct copy of the Declaration of Cardell Smith;

24. Exhibit 22 is a true and correct copy of the Declaration of Juan Lopez Vega;

25. Exhibit 23 is a true and correct copy of the Declaration of Gary Chamberlain;

26. I created the demonstrative exhibit, attached as Exhibit 24, to show the particular rebuttal allegations that respond to certain allegations in Plaintiffs' declarations filed in support of their motion.

DATED: July 8, 2020

Respectfully Submitted,

ETHAN P. DAVIS
Acting Assistant Attorney General

WILLIAM C. PEACHEY
Director

JEFFREY S. ROBINS
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EXHIBIT 1

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants*.	Case No. 5:19-CV-01546 JGB (SHKx)

DECLARATION OF TAE D. JOHNSON

I, Tae D. Johnson, declare as follows:

1. I am employed by the U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Office of Enforcement and Removal Operations (ERO), as the Deputy Executive Associate Director at ICE Headquarters in Washington, D.C. I have held this position since February 2020.

2. From January 2011 to February 2020, I served as the Assistant Director for the Custody Management Division (CMD). Since 1992, I have worked in various other positions within ICE and the former Immigration and Naturalization Service (INS). Throughout my career, I have served in operational positions in ERO Field Offices as a detention and deportation officer, a supervisory detention enforcement officer, and a supervisory immigration enforcement agent. Since 2007, I have been appointed to numerous policy and planning positions within ICE Headquarters, and I have provided general oversight and guidance to ERO Field Offices, ICE leadership, and other federal agencies in the implementation and administration of various

detention and removal statutes, regulations, policies, and programs. Specifically, I have served as a Unit Chief of the Detention Standards Compliance Unit, Chief of Staff for the Office of Detention Policy and Planning, Special Assistant to the Assistant Secretary for ICE, and Deputy Chief of Staff for the Executive Associate Director for ERO.

3. ICE is charged with 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.

4. 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.

5. As a part of my official duties, I am familiar with the plaintiffs' motion to enforce the preliminary injunction in the above-captioned case.

6. I have reviewed the declarations of Dr. Homers Venters (ECF 172-10) and Craig Haney (ECF 172-8).

7. Based upon my personal knowledge and on information furnished to me in the course of my official duties, I declare as follows:

TRANSFERS

8. The ERO *COVID-19 Checklist for All ICE ERO Transfers, Removals, and Releases* form must be completed for any detainee who will be transferred, removed, or released to the community. This checklist helps to ensure the detainee does not pose a threat of illness to

others and/or notifies local health authorities for those detainees who require ongoing monitoring.

9. Detainees are not allowed to be transferred or deported unless they have been cleared of COVID-19 by either a test or time-based protocol as per ERO guidelines. ICE tests certain detainees prior to deportation if required by the host country as an additional step.

10. The overwhelming majority of ICE transfers are unavoidable and are the result of 1) transferring detainees from short-term Under 72-hour holding facilities after arrest, to longer-term detention facilities; 2) transferring to increase social distancing opportunities or because of a lack of new intake capability in a particular geographical location; and 3) to stage individuals prior to their departure from the United States.

11. Since March 1 through June 27, 2020, ICE has removed over 41,000 individuals from the United States and during this same period, reduced its current population from 38,596 on/about March 1, to 23,185 on/about June 27. This 40% reduction in population would not have been possible if transfers did not occur.

12. Absent the capability and capacity to test all individuals prior to transfer, ICE continues to make every effort to ensure that individuals who are infected with the virus are not transferred to other locations until medically cleared via test or time-based protocol as per ERO guidelines. ICE has recently gained access to additional rapid testing machines and has expanded its lab-based testing capabilities at many facilities.

13. As mentioned in ICE's PRR, ICE will continue to consider release from custody when appropriate. As stated above, ICE has reduced its population significantly since March 1 by removing over 40,000 individuals from the United States. During this same period, ICE has

released on bond, issued orders of recognizance and supervision for, and paroled, nearly 18,000 individuals.

14. ICE will continue to update its COVID19 transfer checklist and PRR guidance as additional information and best practices are identified throughout this pandemic.

TESTING

15. Before June 2020, ICE followed Centers for Disease Control and Prevention (CDC) guidance, which stated at the time that testing should be prioritized for persons with symptoms typically associated with COVID-19, including residents in congregate living settings such as prisons and shelters.

16. Beginning June 4, 2020, all ICE Health Service Corps (IHSC)-staffed facilities began testing detainees during the intake screening process for COVID-19 using the LabCorp SARS-CoV-2 nucleic amplification assay test (NAA). Detainees were medically isolated using CDC criteria based on symptoms and test results, and the detainees are released from isolation to general population after clearing through either a testing or time-based method.

17. The ERO *COVID-19 Checklist for All ICE ERO Transfers, Removals, and Releases* form must be completed for any detainee who will transfer, be removed, or be released to the community. This checklist helps to ensure the detainee does not pose a threat of illness to others and/or notifies local health authorities for those detainees who require ongoing monitoring.

18. ICE adheres to CDC guidance as it adapts to the recommendations for universal testing. ICE has initiated several pilot efforts, in conjunction with its partners, to test larger groups of detainees at select facilities in order to evaluate the operational factors of expanded testing.

19. To facilitate removal, ICE will continue testing certain detainees prior to deportation if required by the host country.

20. As testing capabilities continue to improve throughout the United States, ICE will continue to expand its testing of detainees at detention facilities, to include expanded testing of new intakes, saturation testing and testing at transfer, removal and/or release where possible at various locations and continue to work with service providers to make improvements in this area.

21. ICE has obtained 15 additional rapid testing machines which will help with Broader testing as recommended by CDC and others. It was previously noted that ICE should follow the lead of BOP and other state institutions and that ICE has only tested nearly 9,000 detainees compared to about 19,000 tested by BOP. ICE notes that given the significant limitations that had been imposed on testing detainees and others in the community writ large over the last few months, testing of asymptomatic individuals had been severely restricted. Based on the latest data available, ICE has tested approximately 10,500 detainees and has a total population of about 23,000, which amounts to nearly 46% of the ICE detained population being tested. This far exceeds the 19% that BOP has tested based on the latest data available (approximately 28,000 tested of about 144,000 total population), and ICE likely meets or exceeds the testing of many – if not all, state institutions.

MEDICAL ISOLATION, LOCKDOWNS, and QUARANTINE PRACTICES

22. Detainees who are positive for COVD19 and symptomatic are medically isolated, preferably in single cells, in order to prevent the spread of infectious diseases within the general population. Medical isolation of infectious individuals is recommended by the CDC in order to prevent the spread of numerous infectious diseases.

23. During the COVID pandemic, facilities have been required to consider utilization

of all available housing space as needed to facilitate isolation and quarantines consistent with CDC requirements for mitigating the outbreak.

24. A health assessment is provided to detainees prior to placement in medical isolation or cohorting and sick call is offered on a daily basis. In addition, monitoring is completed once or twice a day to include vital signs and oxygen saturation, for symptomatic COVID positive or exposed cases.

25. Medical isolating of individuals for COVID is not dissimilar than isolating individuals with other infectious diseases. What makes this complicated is the large number of individuals that require isolation as a result of exposure, positive test results, or cohorting new arrivals at intake where testing is not available, can very easily exceed the medical housing unit capacity within detention facilities. This is not unique to ICE detention and correctional facilities across the country must deal with this issue and adjust their operations accordingly.

26. The use of segregated housing units, while not preferred, may be necessary at times, depending on the circumstances at a facility to ensure that detainees are properly isolated, quarantined, or otherwise protected from contracting or spreading the disease.

27. ICE will continue to update its policies and guidance as additional information and best practices are identified to ensure that use of segregation is used only as a last resort, and when no other options are available. ICE will explore options for making the segregation unit more akin to medical isolation in locations where this is identified as an issue. ICE anticipates that future revisions of the PRR will include updates in this area.

28. In instances where administrative segregation must be used to medically isolate or quarantine an individual, medical professionals routinely visit and make rounds in the area as they would the medical housing unit. This is the same protocols for individuals with mental

health issues that are housed in administrative segregation due solely to their mental health issues and others in administrative segregation generally. The services for these individuals are to be consistent with those in general population except for safety measure that may be needed to prevent or reduce the spread of the virus. Additionally, detention officers assigned to the unit are aware of the differences between those who are being isolated for medical reasons and those who may be housed in the unit for a disciplinary infraction - if/when the use of segregation units is needed. However, dual use of the units does not occur that often at facilities currently due to risk of exposure. Detention officers are also properly trained on the need to keep medical staff immediately apprised of any issues that come up in between the rounds/visits of medical staff to the unit, when medical staff are not physically assigned to the housing unit.

SEVERE PSYCHIATRIC ILLNESS

29. As has been previously noted, ICE Detention Facilities complete pre-clearance segregation checks prior to placing detainee in medical isolation. This is done to ensure that any medical and mental health concerns are reviewed by medical staff.

30. Additionally, behavioral health providers (BHP) conduct sick calls and daily rounds on detainees housed in medical housing unit(s) as part of COVID-19 symptomatic cohorts to provide behavioral health services.

31. Detainees with identified pre-existing mental health conditions are monitored intensely by BHPs per their treatment plans and continued care needs related to psychiatric or ancillary services.

32: Detainees with Serious Mental Illness are monitored at frequent intervals in accordance with acute/chronic care treatment plan as medically indicated.

HIGH RISK DETAINEES

33. ICE continues to closely monitor and release individuals, where appropriate, who are at higher risk, and do not pose a threat to public safety and/or risk of flight that can't be mitigated via other means. ICE continues to create greater opportunities for social distancing in its facilities by continuing to effectuate the removal of aliens; by releasing individuals when appropriate; or otherwise reducing the detained population via targeted intakes or otherwise. ICE has also made efforts to coordinate the immediate removal of individuals upon being released from State or Federal custody in an effort to prevent higher risk individuals from entering into our detention facilities. This requires significant advanced coordination and is just another example of the steps the agency is taking to keep high risk individuals from being placed into harm's way.

34. ICE continues to identify and track individuals that have conditions that place them at higher risk of severe illness if exposed to COVID-19, consistent with CDC guidelines and this court's April 20, 2020 order.

COVID-19 OVERSIGHT

35. The PRR, while including some medically based precautions, is not intended to establish clinical guidelines or medical protocols for the care and treatment of COVID-19 patients. Medical screening of detainees, the clinical care of individuals in isolation, medical staffing ratios, treatment for COVID-19, and post-recovery evaluations and assessments are delivery of care components provided under the direction of a Health Services Administrator, Clinical Director and/or Clinical Medical Authority, who is licensed and credentialed to address the management of infectious and communicable diseases. Clinically trained professionals are employed or contracted by ICE, or subcontracted by detention service providers to screen, prevent, educate, identify, monitor and surveille, isolate, treat, and follow-up and report, as

necessary, to local, state and federal agencies on the prevention and control of infectious diseases. ICE's Immigration Health Services Corp (IHSC) provides oversight of the delivery of medical care at ICE detention facilities.

36. The primary role of Detention Service Managers (DSMs) and Detention Standards Compliance Officers (DSCOs) is to determine whether facilities are complying with the requirements of ICE's national detention standards. They may conduct reviews of other types of detention or correctional standards, such as the ERO PRR, for components that are of a correctional, operational or non-medical nature. For example, ICE detention standard (4.3) Medical Care, requires that each detention facility shall have written plans to address the management of infectious and communicable diseases. DSMs and DSCOs use a COVID-19 checklist to confirm that the facility has the necessary plans and processes in place but cannot evaluate medical care process, effectiveness of care or patient outcome. The checklist contains 75 questions, including 12 questions specifically tied to facility processes to prevent and manage the coronavirus as it relates to medical care of detainees in a COVID-19 environment. These questions relate to medical policies and procedures, adequate staffing, availability and use of quarantine housing, coordination with state and local health authorities, continuation of sick call and urgent care services, availability and use of personal protective equipment (PPE), and reporting requirements. The checklist does not contain quality of medical care categories that would require assessment by credentialed health care professionals. Instead, IHSC's Field Medical Coordinators work closely with detention facility medical staff and monitor the quality of care administered at facilities.

PRR

37. The PRR is not intended to explain how deficiencies are addressed. The corrective action process for PRR related issues is mirrored after longstanding policies and procedures for correcting deficiencies identified during detention facility audits and reviews.

38. ICE will continue to update its PRR guidance as additional information and best practices are identified throughout this pandemic.

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 belief.

DATED: July 8, 2020

Tae D. Johnson
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

EXHIBIT 2

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants*.	Case No. 5:19-CV-01546 JGB (SHKx)

DECLARATION OF GARY CHAMBERLAIN JR.

I, GARY CHAMBERLAIN JR., hereby declare under penalty of perjury that the foregoing is true and correct.

1. I am the Acting Assistant Field Office Director (AFOD), New Orleans Field Office, employed by the U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO). I have held this position since April 21, 2020 I have been employed by ICE since July 13, 2003. As Acting AFOD, I manage ERO personnel and provide oversight over several detention facilities within the New Orleans Field Office, including the Pine Prairie ICE Processing Center (PPIPC) in Pine Prairie, Louisiana.

2. This declaration is based upon knowledge and information obtained from various records and systems maintained by DHS in the regular course of business. I provide this declaration based on the best of my knowledge, information, belief, and reasonable inquiry for the above captioned case.

3. ICE is charged with removing aliens who lack lawful immigration status in the United States. Detention is an important and necessary part of immigration enforcement. ICE detains people 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.

4. As an AFOD, I manage the detained docket for aliens who are detained at the 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 the PPIPC and general oversight at the PPIPC, including monitoring of adherence to the ICE Performance-Based National Detention Standards.

5. The PPIPC is a private detention center operated by The GEO Group, Inc. (GEO). GEO is an independent contractor that provides the facility, management, and personnel and services for 24-hour supervision of the detainees at PPIPC.

6. Conditions of detention at the PPIPC are governed by the ICE Performance-Based National Detention Standards 2011, revised 2016 (PBNDS). The PBNDS 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.

7. Medical care at the PPIPC is provided by medical professionals employed by GEO.

8. The PPIPC has the capacity to house 730 detainees. As of July 2, 2020, there are 333 detainees housed at the facility. The PPIPC has populations well within its approved capacities and is not overcrowded. The PPIPC houses only ICE detainees.

9. There is daily monitoring of the population percentage at each housing unit. The goal is to facilitate social distancing, as much as practicable.

10. In the common areas, all detainees are encouraged to stay six feet apart, no more than four per table, and the TV benches are marked every six feet.

11. Detainees are free to move about the housing unit during daylight hours.

12. Security staff monitors detainee movement to ensure detainees do not crowd around telephones, board games, communal tables or stand too close while waiting in line for any activity.

13. There are four recreation yards at the PPIPC. Each recreation yard is approximately 44,000 square feet. No more than 35 detainees are permitted in a recreation yard at any one time and use of the recreation yard is optional. The recreation yards are cleaned and sanitized between each use.

14. CDC and ICE posters are displayed throughout the housing units and common areas that explain social distancing, hygiene practices and general information on COVID-19.

15. COVID-19 education is provided to all detainees through instructional videos and postings delivered directly to the detainee's personal tablet device.

16. In my current position, I work with the Field Medical Coordinators (FMCs) who report to the Medical Case Management Unit. The FMCs serve as medical consultants to the

ICE field offices and oversee clinical services at Inter-Governmental Service Agreement (IGSA) facilities that house ICE detainees, including the PPIPC.

17. IHSC provides direct medical, dental, and mental health patient care to approximately 13,500 detainees housed at 20 IHSC-staffed facilities throughout the nation.

18. 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 IGSAs 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.

19. IHSC comprises a multidisciplinary workforce that consists of U.S. Public Health Service Commissioned Corps (USPHS) officers, federal civil servants, and contract health professionals.

20. 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. [1]

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

22. On April 10, 2020, ICE 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. This guidance was updated on June 22, 2020.[2]

23. 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.

24. At the 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.

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[1]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.

[2]https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf.

25. The detainee's responses and the results of these assessments will dictate whether to monitor or isolate the detainee. Detainees who present symptoms compatible with COVID-19 will be placed in isolation and 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.

26. 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) 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. As identified in the PRR, a cohort is a group of persons with a similar condition grouped or housed together for observation over a period of time.

27. In the PPIPC, cohorting is achieved in the following manners:

- As noted above, the PPIPC is currently at less than half the ICE detainee capacity. Depending on operational needs, detainees may be transferred in and out of the facility, but those movements are limited when possible. All new arrivals are placed on a precautionary cohort for a minimum of 14 days upon arrival. Detainees who are manifested for removal flights may be transferred to the Alexandria Staging Facility (ASF) in Alexandria, Louisiana for removal. Because ASF is required to test for COVID-19 for removal to certain countries, there are incidents of COVID-19 positive cases at ASF. Any alien who is at ASF but cannot be removed for any reason, including a COVID-19 positive test, is immediately transferred to the facility from which they came. If transferred back to the PPIPC from ASF after having tested positive for or having been exposed to COVID-19, the detainee would be isolated in medical observation as described below. Detainees who have not been exposed to COVID-19 may be placed back into a regular dormitory setting.
- Detainees who have been in the emergency room or hospitalized are isolated for a minimum of 14 days upon return to the PPIPC.
- If a detainee exhibits symptoms suspicious of COVID-19, the detainee is place in isolation pending test results and the dorm that the detainee was previously housed in is placed in cohort status pending the test results.
- If a test is returned as positive, all of the detainees housed in the dorm the positive test was returned from, will be cohorted for 14 days from the last day they were exposed to the detainee who tested positive.
- Detainees having tested positive, are isolated until they have achieved 72 consecutive hours without fever-reducing medication, symptoms have improved, and two tests are returned as negative at least 24 hours apart. When available,

detainees who have tested positive are placed in a negative pressure room for medical observation.

- The purpose of isolation as described above is not punitive, but, rather, to separate the individual from the rest of the detainee population in an attempt to stop the spread of COVID-19. This is not the equivalent of "solitary confinement" in that the detainees are either placed in negative pressure rooms located in the medical facility of the PPIPC or in single cells. Detainees are able to communicate with the PPIPC staff and, if appropriate, medical personnel.

28. The PPIPC has the following medical capabilities:

- The PPIPC, which manages males only, provides daily access to sick calls in a clinical setting, four observation beds and access to specialty services and hospital care. There are four certified negative pressure rooms in the medical facility.
- Specialty and hospital care are provided through an off-sight provider as needed.

29. As of 12 p.m. on June 30, 2020, IHSC has the following information:

a. There are no confirmed cases of COVID-19 among the ICE detainees at the PPIPC.

b. There is one suspected case of COVID-19 among the ICE detainees at the PPIPC. That individual is in isolation pending his test result.

30. The PPIPC has increased sanitation frequency and provide sanitation supplies as follows:

- The PPIPC provides hand sanitizer, disinfectant sprays and wipes, soap, gloves, masks to staff and detainees. Appropriate personal protective equipment (PPE), such as gowns, gloves, masks, face shields, are provided for use as medically appropriate. All staff are required to wear masks while in the facility. The administration is encouraging both staff and the facility general population to use these tools often and liberally.
- The 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 across the facility.
- Masks are issued to the detainees and staff three times per week, and upon request if needed. Each detainee and staff member have been trained on proper use of masks and are required to wear them. Detainees are encouraged to wear masks outside their housing dormitory. There is no waiver or paperwork that is required to be signed to receive a mask. However, detainees who volunteer for

jobs are required to sign a form indicating that they have been properly trained on the use of PPE for the job to which they are assigned.

- Each detainee is provided with shampoo/bodywash, tissue paper, and other hygiene products twice weekly. Additional hygiene products are furnished upon request.

- There have been no shortage of supplies and facility inventory levels are monitored to assure adequate supplies are readily available for future use.

- GEO has implemented intensified cleaning of surfaces and objects that are frequently touched, especially common areas including telecommunication devices, telephones and adjoining areas, etc.

- Living areas are sanitized by GEO staff four times per shift with sanitizing spray.

31. The PPIPC has limited professional visits to noncontact and has suspended in-person social visitation and facility tours. Attorney visits and immigration court hearings are conducted in a separate room via a video teleconference (VTC). The room is cleaned regularly by GEO staff. In addition, there are disinfectant wipes available to the detainees to wipe down the desk, chair, and other areas accessible to the detainees between uses.

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

33. The PPIPC 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.

34. The PPIPC 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.

35. The 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 *supra*.

36. ERO New Orleans completed its initial search for members of the certified subclasses in Fraihat v. U.S. Immigration & Customs Enf't, No. EDCV191546JGBSHKX, 2020 WL 1932393, at *1 (C.D. Cal. Apr. 20, 2020), as required by the preliminary injunction entered by that Court, Fraihat v. U.S. Immigration & Customs Enf't, No. EDCV191546JGBSHKX, 2020 WL 1932570 (C.D. Cal. Apr. 20, 2020). For cases that were identified as Fraihat class members and other medically vulnerable detainees, ERO New Orleans reviewed these cases to determine whether continued detention was

appropriate. ERO New Orleans continues to review these cases as additional information becomes available or for new detainees entering the facility.

37. Reviews for release based on medical vulnerabilities, including Fraihat class members, are conducted based on the relevant information available to ICE, including information from medical, the alien file, and provided by the detainee or his or her representative. ICE is not under a court order or directive to generally release every medically vulnerable detainee or Fraihat class member, but, as discussed above, to determine whether their continued detention is appropriate. If released, the detainee will be notified and provided the relevant paperwork regarding the release, including, if appropriate, an Order of Supervision, release on Own Recognizance, or parole. In most cases, detainees are not provided written notification that they are not being released.

38. However, if a detainee requests parole pursuant to ICE Directive No. 11002.1, "Parole of Arriving Aliens Determined to Have a Credible Fear of Persecution or Torture" (Dec. 8, 2009) (2009 ICE Parole Directive), he or she is provided a brief explanation of the reason for denial as is required by that directive. The New Orleans Field Office normally uses a form letter, Notification Declining to Grant Parole, on which the relevant basis for denial are checked (i.e., flight risk, failure to establish identify, danger to the community, or other factors) with a brief, but generalized, explanation for that basis. Not only is it not required by the Parole Directive, given the large volume of parole decisions, it is not possible to provide an in-depth explanation as to why parole was denied. In addition, detainees who entered without inspection, but are found to have a credible fear of persecution, and request parole, are issued denials of those requests on an Interim Notice Declining to Grant Parole. In any case in which the detainee is provided notice that they will not be released, ERO New Orleans considers all of the relevant and available information, even though, for practical considerations, a full explanation of all of the factors considered may not be provided on the written notice to the alien.

39. Deportation Officers (DOs) in Oakdale, Louisiana are assigned by to detained dockets at the PPIPC by the alien's last name. This information is posted at the facility for the detainees. In addition, attorneys who contact the PPIPC by telephone are provided their client's assigned DO. If a DO is not available when an attorney calls, that attorney may get transferred to a Supervisory Detention and Deportation Officer (SDDO). In addition, there are DOs who are assigned to the PPIPC. These DOs are not specifically assigned to detainees' cases, but act as liaisons between a detainee and their assigned DO. Detainees can provide documents to these liaison DOs who will provide them to their assigned DO.

40. Attorneys may contact the PPIPC assigned DO via phone, fax, or email, including the New Orleans outreach email box. Documents can be submitted by mail, fax, or email, including release requests. I am aware that at least one situation in which an officer incorrectly indicated that certain paperwork could not be submitted electronically. I have corrected that misunderstanding by allowing electronic submission of any document.

41. The Declaration of Allyson Page makes references to alleged specific incidents regarding detainees at the PPIPC. Without more information, such as the detainees' names or alien numbers, it is difficult to respond to these allegations. However, I was able to obtain information about the individual referenced in paragraphs 10 and 11 of that declaration. On or about May 18, 2020, parole was denied after having been reviewed by an SDDO and AFOD. The detainee's attorney was informed that if he submitted an additional request, it would be reviewed. A subsequent request was in fact received and parole was granted on or about June 25, 2020. The alien was released from ICE custody on June 26, 2020.

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, information and belief.

DATED: July 1, 2020

Gary Chamberlain Jr.
Acting Assistant Field Office Director
Department of Homeland Security
U.S. Immigration and Customs Enforcement

EXHIBIT 3

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants*.	Case No. 5:19-CV-01546 JGB (SHKx) DECLARATION OF KELLEY A. BECKHELM

DECLARATION OF KELLEY A. BECKHELM
ASSISTANT OFFICER IN CHARGE
IMMIGRATION AND CUSTOMS ENFORCEMENT
ENFORCEMENT AND REMOVAL OPERATIONS
OTAY MESA DETENTION CENTER

I, Kelley A. Beckhelm, Assistant Officer in Charge, make the following statements under oath and subject to the penalty of perjury.

1. I am employed by U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO). I currently serve as the Assistant Officer in Charge (AOIC) for the ICE ERO San Diego Field Office at the Otay Mesa Detention Center (OMDC) in Otay Mesa, California.

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. As AOIC at OMDC, I work closely with ICE Health Services Corps (IHSC) and CoreCivic personnel at OMDC. I oversee supervisors who manage the ERO Enforcement Unit at OMDC.

3. ICE is charged with removing aliens who lack lawful immigration status in the United States. Detention is an important and necessary part of immigration enforcement. ICE detains people to secure their presence both for immigration court and their removal, with a focus on those who represent a risk to public safety or for whom detention is mandatory by law.

4. OMDC is a private detention center run by CoreCivic. CoreCivic is an independent contractor that provides the facility management, operations, security and transportation under contract with ICE. CoreCivic personnel are not employed by ICE.

5. Medical care at OMDC is overseen by IHSC. IHSC comprises a multidisciplinary workforce that consists of U.S. Public Health Service Commissioned Corps (USPHS) officers, federal civil servants, and contract health professionals. The Medical Facility at OMDC provides overall medical, dental and mental health care for the detained population, which includes both ICE detainees and U.S. Marshall (USMS) detainees.

6. The OMDC Medical Facility, which is managed by IHSC medical staff, manages both males and females, provides daily access to sick calls in a clinical setting and has an onsite medical infirmary, pharmacy, mental health and dental health services with the ability to admit patients at the local hospital for mental or medical health care.

7. All detainees at OMDC have open access to medical care. Medical staff operate 24 hours a day in IHSC clinics. Nursing services are present during

evening hours, and medical providers (physicians, physician assistants and / or nurse practitioners) are present during daytime hours. Additionally, dentists and mental health professionals are present during weekday business hours. Specialty services are arranged by referral to community physicians and medical centers. Despite the national reduction of medical services for the general public during the Coronavirus Disease 2019 (COVID-19) pandemic, open access has remained for detainees at all IHSC facilities. There is no cost to detainees for medical care during their time in ICE custody.

8. IHSC medical staff also 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 daily sick call procedures are explained to detainees.

9. IHSC medical staff working with CoreCivic staff have identified housing units for the quarantine or isolation of patients who are suspected of or test positive for COVID-19 infection.

10. Since the onset of reports of 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. In responding to COVID-19, IHSC is following guidance issued by the Centers for Disease Control and Prevention (CDC) to safeguard those in its custody and care.[1]

11. On April 10, 2020, ICE ERO released its ERO COVID-19 Pandemic Response Requirements (PRR) and updated it on June 22, 2020. *See* ICE/ERO,

[1] Specifically, ICE closely follows the CDC's March 23, 2020 *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.

COVID-19 Pandemic Response Requirements (Version 2.0, June 22, 2020), https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf. The PRR is 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. OMDC is implementing these procedures as follows. The PRR sets out specific safety measures by ICE in response to COVID-19, including but not limited to:

a. Requirement for OMDC to report all positive COVID-19 test results to the ERO San Diego Field Office Director (FOD), the OIC, ERO at OMDC, and the Field Medical Coordinator (FMC) with IHSC.
b. Requirement to evaluate all new intakes within five days of entering ICE custody to determine whether the detainee falls within the populations identified by the CDC as potentially being at higher risk for serious illness from COVID-19, and/or the subclasses certified in Fraihat v. ICE, --- F. Supp. 3d ---, 2020 WL 1932570 (C.D. Cal. Apr. 20, 2020). Requirement that IHSC notify the OIC and FMC within 12 hours after identifying any detainee who meets CDC's or ICE's identified populations potentially being at higher -risk for serious illness from COVID-19.
c. ICE/ERO custody review upon such notification to determine whether continued detention is appropriate, on a case-by-case basis, pursuant to the applicable legal standards and ICE guidance, including but not limited to consideration of the detainee's medical

vulnerability and whether the detainee's release would pose a danger to the community.

12. New admissions to OMDC have significantly decreased since approximately April 2, 2020. All new intakes and transfers are quarantined for at least 14 days prior to joining the general population at OMDC. If there is an USMS detainee transferring from within OMDC to ICE custody, the detainee is moved into ICE housing. However, the transfer to ICE housing is not done if the detainee is in quarantine or not medically cleared.

13. OMDC currently limits professional visits to legal visits and has suspended in-person social visitation and facility tours.

14. As of July 2, 2020, there are 376 ICE detainees at OMDC out of a current ICE capacity of 1230. Due to the low population numbers, ICE detainees at OMDC are able to socially distance themselves.

15. CoreCivic provides facial masks to all ICE detainees. Masks were first offered to detainees on April 10, 2020, and two additional paper face masks were issued to all detainees on April 24, 2020 and May 11, 2020. On May 18, 2020 and May 20, 2020, all detainees were provided with two cloth face masks. With twice weekly laundry exchanges detainees may send one cloth mask for laundering while retaining the other cloth mask, in addition to the paper face masks. If a detainee asks CoreCivic staff for a new mask because their mask is no longer usable, they are provided with a new mask. Replacement masks are provided to detainees upon request without requirement that the prior mask be exchanged for a new one.

16. ICE detainees at OMDC are provided hygiene products twice a week, which include bar soap, toothpaste, shampoo, lotion and toilet paper. A detainee can receive a replacement from staff in between distribution times. According to CoreCivic

records, from early March 2020 to early June 2020, CoreCivic issued detainees over 40,000 bars of soap free of charge.

17. ICE detainees at OMDC are not provided with alcohol-based hand sanitizer for security reasons, as it is inflammatory and can be used to make homemade alcohol. Detainees are provided with facility-approved soap and EPA-registered sanitation supplies to clean their immediate living areas on a daily basis. In response to COVID-19, detainees are provided access to extra cleaning supplies and disinfectant chemicals to clean their living areas.

18. Gloves and masks are available to detainee participants who work in-pod as porters based on their participation in the Voluntary Work Program.

19. Detainees are not required to sign waivers to obtain face masks. CoreCivic acknowledgement forms were initially used at the April 10, 2020 mask distribution but were not required and were discontinued. No use of force occurred on the April 10, 2020 detainee mask distribution. No chemical agent, including pepper spray, was used on detainees during the April 10, 2020 detainee mask distribution. There was a temporary removal of three detainees due to disruptive conduct during the issuance of face masks. The three detainees were not removed to the Restricted Housing Unit (RHU) or placed in "solitary confinement," as OMDC does not operate a housing location that is termed as such. There was no disciplinary action taken against the three temporarily removed detainees.

20. CoreCivic staff use of facial masks while on duty at OMDC is required. CoreCivic staff entering all detainee housing locations are required at a minimum to wear a facial mask, gloves, and eye protection. CoreCivic staff entering COVID-19 positive housing locations are required to wear a N95 Respirator, gloves, eye protection and gown/coveralls.

21. ICE detainees in general population are not confined 22 or 23 hours a day in their cells and are provided sufficient time for recreation in accordance with the

Performance-Based National Detention Standards (PBNDS). As of July 2, 2020, there are approximately 11 ICE detainees who are housed in the RHU who could be confined for longer periods in their cells.

22. ICE continues to adjudicate requests for parole and other forms of release that it continues to receive from detainees and/or their legal representatives.

23. ICE continues to process bond and custody release documentation through the San Diego ERO offices.

24. ICE has conducted multiple reviews to identify detainees who are at increased risk for severe illness from COVID-19 as defined by the CDC, ICE, and the preliminary injunction in *Fraihat* to determine whether release is appropriate, considering applicable legal standards and ICE guidance, including but limited to the detainee's medical vulnerability and whether the detainee would pose a danger to the community or a flight risk. ICE continues its custody reviews consistent with the PRR, CDC guidelines, ICE guidance, and existing court orders and has released several ICE detainees based on these reviews. ERO has determined on some of these cases to continue to detain due to the detainee being a danger to the community or a flight risk.

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 in the course of performing my official duties.

DATED:

Kelley Beckhelm 07/02/2020

KELLEY A. BECKHELM
Assistant Officer in Charge
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
Department of Homeland Security

EXHIBIT 4

DECLARATION OF CAPTAIN MICHAEL RUSSO

I, Michael Russo, make the following statements under oath and subject to the penalty of perjury:

1. I am currently employed as Captain with the Bergen County Sheriff's Office. My present assignment is with the Bergen County Jail (the "Facility"). I have held this assignment since August 2014.

2. In my current position, I perform the following functions at the Facility: I am responsible for overall daily operations at the Bergen County Jail. As such, I am familiar with the measures taken at the Facility in response to the global pandemic of Coronavirus Disease 2019 (COVID-19).

3. The Facility houses Bergen County male and female adult inmates whose incarceration is necessary to ensure a court appearance. In addition, the Facility houses Immigration and Customs Enforcement ("ICE") detainees pursuant to an Inter-Governmental Services Agreement. ICE detainees and county inmates are never housed in the same cell.

4. The Facility can house a maximum capacity of 1200 inmates/detainees. To date, the Facility houses 112 male and 5 female ICE detainees and a total of 271 county inmates.

5. The ICE detainees are housed in separate housing units within the Facility than the county inmates. There are nineteen total housing units at the Facility. There are five housing units that are used exclusively to house ICE detainees. The remaining housing units are for county inmates.

6. The cells in the housing units are approximately 10' x 7'. There are a total of two beds per cell. These beds are organized in a bunk-bed style. There are no more than two inmates or detainees per cell, one per bed. Apart from the beds, there is 70.6 square feet in the cells.

7. The health care of our inmates and detainees is administered by medical professionals employed by Bergen County. All medical staff operate under the supervision of Dr. Michael Hemsley, the on-site facility physician and medical director. Additional medical staff at the Facility consists of the following: 3 part-time Psychiatrists, 1 full-time and 1 part-time Dentist, 12 full-time RNs, 4 full-time LPNs, and 3 per-diem LPNs. Due to the COVID-19 outbreak, additional Bergen County medical staff are now on-site 24/7 to provide full coverage for all detainee/inmate medical needs. The Facility has an on-site medical infirmary supervised by Dr. Helmsley. Dr. Hemsley is on call 24/7 for any emergency medical needs.

8. Since February 5, 2020, the Facility's correctional and medical staff, in conjunction with the New Jersey Department of Health, Centers for Disease Control ("CDC") and other public health and correctional institutions, have been tracking the outbreak, regularly updating infection prevention and control protocols, and issuing guidance to all staff on screening and management of potential exposure among detainees/inmates.

9. Due to the COVID-19 crisis, the Facility has implemented the following measures:

   a. On or about March 13, 2020, all ICE detainee intake at the Facility had been suspended. As of June 10, 2020, the Bergen County Jail began accepting ICE detainees with the following protocols in place:

      i. Prior to any acceptance of ICE Detainees, the BCJ shall be notified of, and must give approval to, the number of incoming ICE Detainees and time of the expected ICE Detainees' arrival.
      ii. All incoming ICE Detainees shall be required to wear a facial covering when arriving at the BCJ. All Detainees shall continue to wear facial covering until directed by staff members that it is safe to remove.
      iii. All new ICE Detainees shall be tested for COVID-19 upon arrival. The expected testing method to be used on these new ICE Detainees will be saliva testing, which will be conducted by medical staff at the Facility using testing kits that are now available at the Facility. Facility staff members will deliver collected samples to Bergen Newbridge Medical Center for results
      iv. All incoming detainees will be housed in a Medical Separation Unit (i.e. C1, C5, N1).
      v. All new ICE Detainees shall be housed together in their assigned group. All Detainees that were committed together will remain in their assigned groups, until the COVID-19 test results have been returned.
      vi. All Detainees shall remain in their assigned group while they receive their allotted time out of their cells.
      vii. All housing changes needed due to disciplinary status, medical concerns, mental health issues, or any other situations, must receive approval prior to movement except in emergency situations.
      viii. After the BCJ Medical Director has reviewed the COVID-19 test results for a particular group, and all are clear, the Detainees may then be re-housed to the specific BCJ Housing Unit based on their classification.

ix. When someone tests positive for COVID-19, that individual shall be housed in a quarantine unit (currently N2). If a positive Detainee came in as part of a group, the entire group shall be quarantined for 14 days, regardless of their test result.

b. For county inmate intake, all inmates are subject to a medical screening. As part of this screening, inmates are assessed for fever and respiratory illness, and 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. The inmate's responses and the results of these assessments will dictate whether to monitor or isolate the inmate. Those inmates that present symptoms compatible with COVID-19 will be placed in isolation and may be sent for testing to a local hospital. If testing is positive, and they do not require hospitalization, they will remain isolated and receive treatment at the Facility. In case of any clinical deterioration, they will be referred to a local hospital.

c. All social visitation and facility tours have been suspended. All attorney visits are limited to non-contact visits where attorney and detainee/inmates are separated by a glass partition. Phone and video conferencing is also available for all attorney and social visitation.

d. Prior to entering the facility, staff members and vendors must receive a temperature screening at a self-check-in kiosk. These temperature screenings are conducted outside the Facility on every shift. Those individuals who display a temperature above 100 degrees Fahrenheit are not permitted to enter the Facility, and are further screened by Medical staff that is on duty 24 hours per day, 7 days per week.

e. All staff members have been issued and are wearing masks while inside the facility. Gloves are available to staff as necessary.

f. All detainees and inmates remain in their cells, except for staggered two - hour periods of time throughout each day when they are permitted to exit the cell area (detainees and inmates are out of their cell for a total of 6-8 hours each day). During this time period, because the Facility is on a lockdown schedule due to COVID-19, up to thirty-two inmates/detainees are permitted to leave the cell area at a given time. During that time, those thirty-two inmate/detainees have 2643 square feet of space within the Facility available for recreational use, including showering. This available space provides ample room for the inmates/detainees to engage in social distancing during recreation. The inmates and detainees are not commingling during this period. The Facility implemented the staggered recreational period described in this paragraph, with a maximum of

thirty-two inmates/detainees during a given period, in order to maintain proper social distancing among the detainee/inmate population in accordance with the CDC guidelines on social distancing in correctional facilities. Due to the small size of the female population, as of June 10, 2020, female ICE detainees are housed in a dormitory and are not in cells.

g. The only other time an inmate or detainee can exit the cell area is for non-contact attorney visits or for phone conferences with attorneys. However, if an inmate or detainee is positive for COVID-19 or is symptomatic, phones will be made available in the housing unit for use by that inmate or detainee.

h. The Facility is following guidance issued by the CDC for correctional facilities in its evaluation and testing of the inmates/detainees in its custody and care. As such, medical staff immediately evaluate any detainees and inmates who complain of illness. Detainees and inmates who feel any symptoms of illness can make daily sick calls as needed. Symptomatic detainees and inmates are tested for COVID-19. Tests are administered at the BCJ and samples are delivered to BNBMC.

i. If the detainee or inmate is positive for COVID-19, and does not require hospitalization, the detainee/inmate will return to the Facility and be isolated in a cell in the North 2 housing unit. There are thirty-two cells in North 2 housing unit. As of March 30, 2020, the Facility is using North 2 housing unit to exclusively house inmates and detainees (though inmates and detainees will not held in the same cells) who have tested positive for COVID-19 or for those inmates and detainees who are symptomatic and are awaiting testing results. Prior to March 30, 2020, the Facility used the Central 5 housing unit to house positive tested COVID-19 detainees and inmates (also not comingled in cells) and Central 4 housing unit to house symptomatic detainees and inmates awaiting testing results. The North 2 Housing Unit is a larger housing unit than Central 4 or Central 5. The confirmed positives currently housed in North 2 are on one side of the housing unit and the suspected positives are on the other end of the housing unit. There is approximately 30-40 feet between the known positive cases and suspected positive cases in North 2. To date, there are no ICE detainees housed in North 2 who are symptomatic and there are no county inmates who are symptomatic in North 2. There are no other detainees or inmates housed in North 2 at this time. Any individual housed in North 2 is placed in isolation in single-occupancy cells with solid closed doors, and not in open bar cells, with their own personal sink and toilet. Toilet paper and soap are replaced as needed, and at least once a week (every Monday new supplies are issued to all detainees and inmates). Hand sanitizer is also readily available. A detainee who previously tested positive for COVID-19 is no longer at the Facility, as he

was released on March 26, 2020, and there is one county inmate in a local hospital, being treated for an unrelated condition, who has tested positive. There is one county inmate in medical isolation in the Medical Unit.

j. Those detainees or inmates who have had a known exposure to a confirmed case of COVID-19, but are asymptomatic, remain housed in the same housing unit but ICE detainees and inmates do not share cells. This process is known as cohorting. Cohorted detainees and inmates remain in a housing unit with other asymptomatic inmates and detainees for a period of 14 days. If no new COVID-19 case develops in 14 days, the cohorting of these detainees will terminate.

k. To date, the only two confirmed positive COVID-19 cases of ICE detainees at the Facility have been in housing unit North 6. North 6 is no longer being used to house ICE detainees.

l. The Facility has implemented an increase in the general cleaning of the facility with additional staff working through the late-night hours to ensure that the facility is cleaned and disinfected. All housing units are sanitized no less than four times per day. Any common bathrooms are sanitized every shift. Fresh air is constantly circulated by opening doors and utilizing handler/vents throughout the day. Cells at the Facility do not share air vents with another. All feeding is done inside the cells, so inmates and detainees do not congregate for meals in accordance with CDC guidance for correctional facilities. The Facility provides disinfectant spray, hand sanitizer, and soap in every housing unit at the Facility. Cleaning supplies are available for detainees to sanitize bathroom, telephones and showers prior to use. The administration is encouraging both staff and the Facility general population to use these tools often and liberally. The Facility has not experienced any shortages in cleaning supplies or personal protective equipment.

m. The Facility provides education on COVID-19 to all staff, detainees, and inmates 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 and inmates daily access to sick call. There are signs posted throughout the Facility advising inmates, detainees and staff regarding hygienic protocol and maintaining of proper social distancing. These signs are posted in both English and Spanish.

n. Inmates and detainees have been issued surgical masks. All inmates and detainees wear their issued masks any time that they are out of their cells. Disposable masks are replaced at least once a week, and also upon request. In addition to this, all detainees have been issued two cloth masks.

o. The Office of the Bergen County Sheriff bought three electric and one gas-powered fogger to increase disinfectant capacity throughout the agency. These tools are being used to sanitize units in the jail and patrol vehicles after each shift.

p. To date, the Facility has the following information:

1. Two ICE detainees at the Facility have tested positive for COVID-19. One of those positive tested detainees is no longer at the Facility, as he was released on March 26, 2020. The second detainee was released from quarantine on April 13, 2020.

2. There are no ICE detainees and one inmate suspected cases of COVID-19 in the Facility who are on medical observation per CDC guidelines.

3. There is one Bergen County inmate who has tested positive for COVID-19.

4. Twenty-seven County Corrections Police Officers and five Nurses who work at the Facility have tested positive for COVID-19. Twenty-five County Corrections Police Officers and five Nurses have returned to duty. The remaining officers and nurse are in isolation and are not working at the Facility currently.

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, information and belief.

DATED: July 7, 2020

Capt Michael Russo

Captain Michael M. Russo
Bergen County Sheriff's Office
Bergen County Jail

EXHIBIT 5

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION - RIVERSIDE

FAOUR ABDALLAH FRAIHAT, *et al.*,

Plaintiffs,

v.

Case No. 19-01546

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*,

Defendants.

DECLARATION OF SCOTT SPURLOCK

Pursuant to 28 U.S.C. § 1746, I, Scott Spurlock, hereby declare under penalty of perjury that the following statements are true and correct to the best of my knowledge, information, and belief, at the time I executed this Declaration:

1. I am Chief of Security of the Pulaski County Detention Center and have held this position since February 2020. In that capacity and pursuant to a contract with ICE/DHS, I oversee security aspects of all ICE detainees who are housed at the Detention Center.

2. The subject matter of this Declaration involves my official duties as Chief of Security. I provide this Declaration based on my personal knowledge, reasonable inquiry, and information maintained and relied upon at the Pulaski County Detention Center in the regular course of business.

A. Intake of ICE detainees at the Pulaski County Detention Center

3. All new ICE detainees assigned to the Pulaski County Detention Center undergo a complete medical intake evaluation and screening by Licensed Practical Nurses ("LPN") and/or Registered Nurses ("RN") for medical, mental health, and disability issues.

Translation services are provided during the intake process if needed. This intake procedure existed prior to the COVID-19 pandemic.

4. If a new ICE detainee were processed today, the intake processes would identify medically vulnerable individuals, individuals at high risk for having contracted COVID-19 and/or who present with symptoms consistent with having become infected with COVID-19 as identified by the Centers for Disease Control ("CDC") and Illinois Department of Public Health ("IDPH"). The facility has received no new ICE detainees in nearly two months, and no new ICE detainees are anticipated in the near future.

B. The Detention Center's housing units and capacity

5. The Pulaski County Detention Center has six housing units for ICE detainees: three, 50-person, all-male dormitory style units (Pods A, B, and C); an all-male unit with 12, two-person cells (F-Pod); an all-female unit with 12, two-person cells (D-Pod); and a special housing unit with eight, two-person cells. Each housing unit is provided with up to five phones and three video visitation systems. Male and female ICE detainees are kept in separate housing units.

6. The all-male unit with 12 cells (F-Pod) and the special housing unit are currently configured to provide space for medical isolation cases if necessary. The facility's medical unit also has two negative-pressure ventilation rooms available for medical isolation.

7. The Detention Center has the capacity to house more than 200 ICE detainees. Currently, the facility has 52 ICE detainees. The all-male dormitory-style housing units (Pods A, B, and C) are filled at less than half capacity. ICE detainees are assigned to housing units in a manner that promotes the safety of all detainees and staff.

8. In the three dormitory-style housing units (Pods A, B, and C), there is a common area. The common areas consist of a relatively large space immediately inside of each unit's door. There are three long tables in the common areas of the dormitory-style units. Given the facility is at less than half capacity, detainees are able to socially distance in the common areas. This includes when detainees eat at the tables.

9. Toward the back of dormitory-style housing units are bunk beds. The bunk beds are located on the main floor and in a balcony area. Also on the main floor toward the back of the dormitory-style units are areas where the shower, sinks, and toilets are located.

10. The bunk beds in the dormitory-style housing units are approximately four feet apart. Because the facility is at less than half capacity, ICE detainees in the dormitory-style housing units are able to sleep in a manner that permits social distancing. Staff monitor the dormitories to attempt to ensure detainees practice social distancing. Detainees are also relied on to exercise social-distancing practices.

11. ICE detainees who are not in disciplinary segregation or medical isolation are offered 4 hours of recreation per day. Recreation is conducted in a manner that keeps the populations from each housing unit separate from the others. Staff monitor the detainees during recreation to attempt to ensure they are practicing social distancing.

C. County Jail Inmates/Detainees

12. ICE detainees are housed separately from individuals who are housed in county jail, and the ICE detainees do not comingle with county jail inmates/detainees. County jail inmates/detainees are housed in G-Pod. When an individual is arrested and brought to be placed in the county jail (G-Pod), the individual is tested for COVID-19. To date, there has been one (1) positive results from those tests of county arrestees, with the subject being

in isolation upon intake, and posting bond from the facility within one day of test confirmation.

D. Steps to Address the COVID-19 Pandemic

13. As of 8:00 a.m. on March 14, 2020, all visitations and religious services at the Detention Center were cancelled. Additionally, at or around this time, the facility began taking vendors' temperatures before they were allowed entry, and attorneys began using teleconferencing to communicate with detained clients.

14. On March 16, 2020, the facility also began "cohorting." Cohorting means each of the housing units is kept separate from the others for all purposes. The goal in keeping these units separate from one another is to ensure that, if a contagious illness arises in one of the units, detainees in the other units are not also exposed to potential sickness. Movement of some detainees between housing units has occurred since March 16, 2020. Movement occurred when the facility expanded space for medical isolation. Movement of detainees may also occur for the safety and security of the facility and its population.

15. Detainees and staff continue to receive N-95 masks. Detainee and staff masks are replenished at least weekly, or at any other time when masks are visibly soiled/wet, or upon request. Detainees are strongly encouraged to wear their masks at all times and must wear the mask if they leave their housing unit. Gloves are provided to detainees for sanitation purposes and general cleaning of housing units. Staff must wear a mask at all times when in the detention areas of the facility. Gloves are also available to staff who enter the housing units. Proper instruction for use of PPE is provided/reminded to all staff and detainees on a regular on-going basis.

17. Any individual attempting to enter the facility must have their temperature checked. If any indiv dual has a fever (100.4), they are not allowed access to the facility. Detainees' temperatures are checked twice daily. Staff members' temperatures are checked before every shift. If a staff member has a temperature (100.4), they are not allowed in the facility. Staff members with temperatures are also evaluated by medical staff to determine if COVID-19 testing is warranted.

18. Hand soap is supplied daily in each housing unit and checked regularly to ensure availability. Other personal hygiene items are provided twice per week. The facility also makes its own hand sanitizer pursuant to guidance provided by IDPH. Hand sanitizer is available to detainees and staff. Detainees are issued a personal bottle for hand sanitizer and anti-bacterial soap that can be refilled as needed.

19. The facility increased the cleaning frequency of all areas as a result of COVID-19. Detainees receive cleaning supplies—including a cleaner approved for killing the COVID-19 virus—daily to clean the personal and common areas in their housing units. Detainees also clean the toilets and sinks in their units.

20. One ICE detainee in each of the 50-person-capacity housing units is paid to act as that unit's porter. The facility's environmental health safety staff and other staff also monitor the housing units to ensure they are clean. The environmental health safety staff bleach the showers daily.

21. Common areas outside of the housing units are cleaned by staff on a continuous basis. Both staff and detainees are advised of the importance of cleaning surfaces that are touched frequently, including door handles, table-tops, phones, etc.

22. Mec ical staff educate detainees regularly on good hygiene practices and other methods to prevent the spread of communicable disease. The housing units also contain pamphlets in English and Spanish. These pamphlets provide detainees information about COVID-19. Detainees also have access to news/media.

23. The facility eliminated use of a detained work force and made staff shift adjustments to combat the spread of COVID-19 among staff and detainees.

24. Meals are served to each housing unit separately. Detainees are called by name to receive their food. Staff attempt to conduct meal times quickly and in a manner that provides for as much social distancing as possible. The meals served at the facility are approved by a licensed dietician.

E. COVID-19 Testing

25. The facility currently has sufficient COVID-19 testing kits to test any staff member or detainee who meets the criteria for testing as identified by IDPH and the CDC.

26. All ICE detainees in the dormitory-style housing units (Pods A, B, and C) where only males are housed have been tested for COVID-19. At the end of May an ICE detainee underwent an appendectomy at an outside medical facility. The facility performed a rapid-response COVID-19 test on that detainee, and the result was positive. This prompted the facility to re est all individuals housed in B-Pod. That testing resulted in a total of 16 active COVID-19 cases among ICE detainees. Prior to retesting B-Pod, almost all previously-identified pc sitive cases had recovered. Five detainees in B-Pod tested negative, and those five remained in the B-Pod dormitory. All positive cases have since been deemed recovered by medical professionals and have returned to general population from medical isolation. None of the positive cases from B-Pod showed active signs or symptoms of sickness due

to a COVID-19 infection. Additionally, none of the detainees in A-Pod, C-Pod, or the all-female unit, D-Pod, are demonstrating signs or symptoms of sickness. All individuals identified as positive for COVID-19 will remain in medical isolation until medical professionals deem the cases recovered. The facility re-tested detainees in A and B pod housing unit on June 23, 2020. Of sixteen (16) detainees tested, ten (10) detainees still yield a positive result. Cohorting continues for these detainees under medical isolation until deemed recovered by medical professionals. Two (2) of the 10 positive cases were past an eight (8) week mark for recovery, these two individuals were medically isolated as recommended by the IDPH.

27. No staff at the facility are currently positive for COVID-19, and no staff are showing signs and symptoms of sickness.

F. Medical Isolation

28. ICE detainees who demonstrate signs of sickness are immediately placed in a medical isolation cell. No detainee may leave medical isolation without clearance from medical professionals. ICE detainees in medical isolation use the toilet/sink in the cell and eat alone. Daily showers are offered to ICE detainees in medical isolation; all ICE detainees at the facility take showers alone. Anyone under medical isolation is visited by medical staff at the beginning of every shift; there are three, eight-hour shifts. Detainees in medical isolation received a minimum of two (2) hours daily of recreation and are afforded extra time outside isolation when possible, not conflicting with meal times or facility scheduling needs. In addition, they are afforded no restriction to commissary items, leisure activities such as board games, books, and/or other approved reading material.

G. Medical Care at Pulaski County

29. As of June 1, 2020, the facility has four full-time medical staff, consisting of LPNs and RNs. The facility contracts with a physician who is present four hours per day, five days per week. The physician conducts sick call each day. There is also a physician on call 24/7. The facility contracts with a mental healthcare professional who provides services at the facility four hours per day, four days per week. Sick call slips are picked up three times per day. If a detainee were to require care above the level the facility can provide, that detainee would be taken to an outside hospital. No ICE detainee who has tested positive for COVID-19 has required care at a hospital or emergent care at the Detention Center.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 30 day of June, 2020

CHIEF OF SECURITY SCOTT SPURLOCK

EXHIBIT 6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants.*	Case No. 5:19-CV-01546 JGB (SHKx)

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 is charged with removing aliens who lack lawful immigration status in the United States. Detention is an important and necessary part of immigration enforcement. ICE detains aliens to secure their presence for immigration removal proceedings and effectuate their removal from the United States with a special focus on those who are a risk to public safety or for whom detention is mandatory by law.

5. ICE contracts with LaSalle Corrections (LaSalle) for the management and operation of Irwin, pursuant to an Intergovernmental Services Agreement (IGSA). Conditions of detention at Irwin are governed by the ICE National Detention Standards 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 is responsible for managing the immigration cases of detained aliens at Irwin. In addition, ERO is responsible for monitoring LaSalle to determine its level of compliance with PBNDS 2011 in its administration,management and operation of Irwin.

7. Irwin has the capacity to house 1,296 detainees. As of 12:00 p.m. on July 2, 2020, there are only 484 detainees housed at Irwin. This number is a decline from the 615 detainees who were housed at Irwin on March 18, 2020, to promote social distancing and separation during the COVID-19 global pandemic.

8. ICE Health Service Corp (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 Field Medical Coordinators 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 IGSAs 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. On April 10, 2020, ICE Enforcement and Removal Operations (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. An updated version of the PRR was released on June 22, 2020.[1]

12. 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.[2]

13. 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.

14. Each detainee is screened for disabilities upon admission by medical professional. Identified disabilities are further evaluated and reasonable accommodations are provided as medically appropriate.

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[1] https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf

[2] 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.

15. 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.

16. 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 tested in the medical unit. If testing is positive, they will remain isolated in negative pressure rooms or other medical rooms and treated. In case of any clinical deterioration, they will be referred to a local hospital.

17. 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.

18. All arriving detainees are placed under medical isolation during a 14-day intake quarantine period to avoid potential exposure to other detainees. Detainees arriving within 48 hours of each other may be housed together. Following the 14-day intake quarantine period, detainees are re-checked by medical staff prior to being transferred to a transition housing unit where detainees wait for transfer to general population. Detainees housed in a transition housing unit or general population unit have access to phones and can access the law library upon request. Each housing unit is provided recreation time however the units are not permitted to recreate or use common areas outside their individual housing units at the same time.

19. In order to maintain a seventy percent occupancy level within housing units, arriving detainees may be housed in a one or two bed housing unit during the fourteen-day intake period. These detainees are provided access to telephones, the law library, and recreation.

20. Irwin has increased sanitation frequency and provide sanitation supplies as follows:

    - LaSalle Corrections 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.

21. LaSalle provides detainees daily access to sick call.

22. LaSalle issues all detainees two cloth face masks during intake, replacements are provided upon request by the detainee. Detainees are provided gloves for use while visiting the law library or interview rooms. Detainees participating in cleaning details, are also provided gloves in addition to masks.

23. 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.

24. In addition, ICE has reviewed and continues to review the custody determinations detainees pursuant to the preliminary injunction ordered in *Fraihat, et al. v. U.S. Immigration and Customs Enforcement, et al.*, 5:19-cv-01546 (C.D. Cal.), Dkt. 132, which required ICE to make timely custody decisions for all detainees with risk factors.

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 belief

DATED: July 2, 2020

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

EXHIBIT 7

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants*.	Case No. 5:19-CV-01546 JGB (SHK)

DECLARATION OF SCOT W. JACKSON,
ACTING ASSISTANT FIELD OFFICE DIRECTOR

I, Scot W. Jackson, make the following statements under oath and subject to the penalty of perjury:

1. I am employed by U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations ("ERO") and currently serve as the Acting Assistant Field Office Director in the Washington, D.C. Field Office. I have been employed by the agency since July 2002.

2. As an Acting Assistant Field Office Director, am charged with the responsibility of overseeing the Supervisory Detention & Deportation Officers and the Deportation Officers who manage the cases of detained aliens in removal proceedings and officers who manage the process of obtaining travel documents and executing final removal orders. These duties include, but are not limited to, overseeing the officers' review of alien files for sufficiency, managing the detention and release of aliens in ICE custody, overseeing the medical care of aliens in ICE custody, ensuring post-order custody reviews are completed in a timely manner and reviewing the case officers' recommendations, monitoring the progress of cases through the immigration hearing process, and enforcement of the immigration court's decision, including overseeing the execution of final removal orders. Additionally, I oversee the officers who facilitate obtaining travel documents for detainees and act as a liaison between the detained alien and the consulate for the respective country of removal.

3. 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.

4. Farmville is located in Farmville, VA. It is an ICE exclusive facility and has a capacity of 736. As of the evening of July 1, there were a total of 377 detainees at Farmville,

approximately 51% of total capacity. The facility has 7 occupied dorms, which currently have an average capacity of 55 detainees per dorm.

5. ACHS provides direct medical, dental, and mental health patient care to detainees housed in the Farmville Detention Center. ACHS has medical staff on site 24 hours a day, 7 days a week. ACHS comprises a multidisciplinary workforce that consists of a licensed physician that is on site 5 days a week, a licensed dentist on site 4 days a week, a licensed psychiatrist on site 5 days a week, and eight licensed registered nurses, twelve licensed practical nurses, and two licensed professional counselors, that work rotating schedules that are available to detainees 24 hours a day, 7 days a week.

6. 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 ACHS staff via IHSC for the screening and management of potential exposure among detainees. In testing for COVID-19, ACHS is also following guidance issued by the Centers for Disease Control (CDC) since March 23, 2020 to safeguard those in its custody and care. In light of the pandemic, ICE has identified those detainees who might be at higher risk to COVID-19 (i.e., over age 65 or are immune-compromised) for additional case monitoring, ICE has used the age of 60. This identification and case monitoring applies to both the Farmville Detention Center and the Caroline Detention Facility. Subsequent to the order in *Fraihat v. ICE*, 19-cv-01546 (C.D. Cal. Apr. 20, 2020) outlining more restrictive guidelines for COVID-19 risk factors, ICE revised its assessment procedures to adhere to this Order.

7. ICE has maintained a pandemic workforce protection plan since February 2014, which was last updated in May 2017. This plan provides specific guidance for biological threats such as COVID-19. ICE instituted applicable parts of the plan in January 2020 upon the discovery of the potential threat of COVID-19.

8. ACHS has been in daily contact with the Piedmont District of the Virginia Department of Health. Decisions on cohorting and isolation are made in consultation with them. When a dorm is placed on cohorting protocol, that dorm is placed on restricted movement and isolated from other dorms and detainees in that dorm are subject to increased medical monitoring.

9. As a precautionary measure, on March 13, 2020 ICE temporarily suspended social visitation in all detention facilities, including the Farmville Detention Center. As of July 2, 2020, this measure remains in place.

10. The Farmville Detention Center has implemented daily, increased cleaning of detainee housing and dayroom areas and has been educating detainees about the spread of COVID-19 and the preventative measures to avoid the disease; including encouraging all detainees to social distance.

11. In testing for COVID-19, ACHS is also following guidance issued by the Centers for Disease Control to safeguard those in its custody and care. During intake medical screenings of all detainees, including those transferred from other facilities, comprehensive health assessments are based on detainee statements and a direct medical screening. In

these screenings, all incoming detainees are assessed for fever and respiratory illness, they 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. The detainee's responses and the results of these assessments will dictate whether to monitor or isolate the detainee. Those detainees that present symptoms compatible with COVID-19 are 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. On or about June 2, 2020, seventy-four (74) detainees were transferred to Farmville from detention centers in Arizona and Florida. The detainees were subject to intake medical screenings, which include evaluation for any COVID-19-related symptoms, exposure, and travel. Any detainees that presented symptoms compatible with COVID-19 were placed in isolation, where they were tested. The detainees who tested positive were isolated and treated, including hospitalization as appropriate.

13. All detention staff are screened for COVID-19 symptoms and exposure prior to each time they first enter the main detention building for a shift. ACHS is also educating staff on an ongoing basis, focused on providing that education at shift changes to ensure all staff are covered.

14. In cases of known exposure to a person with confirmed COVID-19, asymptomatic detainees are placed in dorms which are cohorted 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. 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.

15. In the case of exposure to a person with fever or symptoms being evaluated or under investigation for COVID-19 but not confirmed, the process is the same except that cohorting is discontinued if the index patient receives an alternate diagnosis excluding COVID-19.

16. Soap and hand sanitizer are readily available to all and the facility has posted signs explaining the importance of handwashing and sanitizing as a means of reducing the spread of the novel coronavirus in both English and Spanish. Additionally, every detainee and staff member has been provided with three (3) N95 masks, two surgical masks, and two cloth masks for individual use with signs posted in the dorms explaining the purpose and use of these masks in English and Spanish.

17. The facility is cleaned and sanitized approximately every four (4) hours. Portable hand washing stations were rented from a local vendor to facilitate more frequent hand washing. Staff are wearing personal protective equipment, including coveralls or disposable gowns, face shields, gloves, and N95 masks, when entering the housing units.

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: July 2, 2020

Scot W. Jackson
Acting Assistant Field Office Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

EXHIBIT 8

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants*.	Case No. 5:19-CV-01546 JGB (SHK)

DECLARATION OF LIEUTENANT COMMANDER STEPHANIE MROS

I, Lieutenant Commander Stephanie Mros, MPH, BSN, RN, CCHP, make the following statements under oath and subject to the penalty of perjury:

1. I am employed by U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), and currently serve as the Assistant Health Services Administrator at the Caroline Detention Facility (CDF). I have held this position since October 2018.

2. In my current position, I oversee and monitor the provision of a wide array of medical services to the detainee population at the CDF.

3. 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.

4. CDF is located in Bowling Green, VA. It is an ICE exclusive facility and has a capacity of 336 detainees (280 male and 56 female). As of the morning of July 2, 2020, there were a total of 156 detainees at CDF, approximately 45% of total capacity.

5. There are 6 housing units, all of which can house up to 56 detainees. Each housing unit consists of 14 cells that can house up to 4 detainees per cell. There are different configurations depending on the custody level of the detainee. Some cells have 4 lower bunks. Detainees can social distance in these cells by sleeping foot to foot. Other cells have two sets of bunk beds in the cells. Detainees can social distance in these cells by sleeping head to foot. At current capacity, the housing unit with the most detainees houses 45 detainees, for a fill rate of 80%.

6. The Caroline Detention Facility has the following medical capabilities:

The CDF has medical staff on site 7 days per week between 0500 and 2330. A physician is on call 24/7. The facility has Advanced Practice Providers, Behavioral Health Professionals, a physician on site 5 days per week. The CDF also has a fully capable pharmacy with a Pharmacist on site 5 days per week. Detainees have access to sick call daily and 24/7 access to Urgent Care. Sick call is the process by which detainees can access medical, behavioral health, and dental services. The detainees simply sign up on the list provided in the dorm in the morning and are seen by a health professional the same day. Detainees who require services beyond the scope of a Registered Nurse are referred to the appropriate provider accordingly. There have been no delays in in seeing detainees for sick call requests or in referring for other services.

7. Standard practice in place prior to the COVID-19 pandemic included that each detainee would be screened by a medical professional for medical conditions and disabilities upon admission. Identified conditions and disabilities are further evaluated and treatments and/or reasonable accommodations are provided as medically appropriate.

Caroline Detention Facility and COVID-19

8. 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. The IHSC Public Health, Safety, and Preparedness Unit issued their first guidance to IHSC field staff on January 22, 2020 and continue to update the guidance to remain consistent with CDC guidelines. In testing for COVID-19, IHSC is also following guidance issued by the Centers for Disease Control (CDC) and collaborating with the state and local health departments to safeguard those in its custody and care.[1]

9. ICE reviews its detained population of people who are "at higher risk for severe illness," as identified by the CDC, 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. Subsequent to the Order in *Fraihat v. ICE*, 19-cv-01546 (C.D. Cal. Apr. 20, 2020) outlining more restrictive guidelines for COVID-19 risk factors, ICE revised its assessment procedures to adhere to this Order.

10. CDF medical staff communicate regularly with the Rappahannock Area Health District of the Virginia Department of Health (VDH)—the health district in which CDF is located—regarding screening and response measures. The VDH has made testing kits available to our site as needs arise (consistent with the CDC testing guidelines), for both staff and detainees.

[1] 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.

11. CDF provides detainees with disinfectants to clean their living areas and with soap to promote frequent hand-hygiene. CDF has also increased the cleaning and disinfecting of communal spaces (e.g., kitchen, communal bathrooms, phone booths, etc.). Communal spaces are cleaned twice a day. Soap is provided to detainees free of charge and they may request a new bar of soap at any time.

12. CDF has limited professional visits to noncontact visits and suspended in person social visitation. The detainees have access to video visitation within their housing units.

13. CDF is screening all staff, vendors, and detainees (including detainees who transfer from other facilities) when they enter the facilities for symptoms, exposure, and travel including body temperatures. Per ICE's guidance, the temperature threshold for staff entering the facility is 100.4. Anyone who has a temperature that exceeds 100.3 will be denied entrance. IHSC medical staff wear surgical masks for all medical encounters. All facility staff and vendors are required to wear masks in the facility. CDF staff, both medical and custody, who exhibit symptoms consistent with COVID-19 are directed to remain at home and are only allowed to return to work once cleared by a medical professional.

14. On April 10, 2020, ICE Enforcement and Removal Operations (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.[2]

15. All detainees present in CDF as of April 23, 2020 were provided with an N95 mask and encouraged to wear the masks any time they leave their cells. Beginning June 5, 2020, CDF acquired cloth masks and issued one mask to all detainees. Detainees may request a new mask if theirs becomes soiled or damaged; masks are provided on a one to one exchange. Detainees are also allowed to exchange their masks daily during laundry. All returned masks are washed in a solution that is effective in eliminating coronaviruses.

16. A temperature check and COVID-19 symptom screening have been incorporated into all scheduled detainee encounters with medical personnel. As explained in greater detail below, *infra* ¶ 18, the results of the screening dictate the protocol the medical personnel follow. As explained above, detainees also have access to sick call 7 days per week, and urgent/emergent care 24/7, and have been encouraged to disclose the onset of any symptoms that they may experience.

17. Detainees have received COVID-19 prevention education verbally. There is also education on preventing the spread of COVID-19 printed from the CDC in all the housing units in English, Spanish, and Chinese. All detainees have been encouraged to socially distance themselves from one another, regularly wash their hands, and not touch their faces. Facility staff are required to ensure detainees are at least 6 feet apart during movements and

[2] *See* https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf.

in various communal areas including the library. Detainees are encouraged to stay 6 feet apart while in the dayroom (main communal space in each housing unit). CDF added more tables to the dining halls so there are no more than 2 detainees to a table eating. The tables have been spread out in the dining halls. Recreation is optional and we use outside recreation if weather permits. Detainees are required to distance during recreation as well.

18. As of April 17, 2020, all incoming detainees are "cohorted" or isolated during their first 14 days of arrival. 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. For COVID-19 specifically, the CDC recommends self-isolating for 14 days if there is a possibility of exposure. Those that show onset of fever and/or symptoms of 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.

19. Detainees who are suspected of having COVID-19 are isolated in a negative pressure room or other single room if the negative pressure room is not available. They are monitored at regular intervals as clinically indicated and remain in isolation until COVID-19 can be excluded, or in accordance with the CDC's guidelines if they do not meet criteria for testing. In addition, the housing unit where the suspected detainee was housed would be placed on a cohort status. The cohort would not be released until a complete incubation period (14 days) had passed without a new case, or until COVID-19 had been excluded.

20. As of June 5, 2020, all detainees are being offered a COVID-19 test upon arrival. This protocol resulted as a result of the increased availability of testing supplies—supplies which were not as widely available in the early-Spring of this year. Detainees who consent to the test remain cohorted with other detainees who arrived on the same date while they await their test results. Detainees who test negative for the virus remain cohorted for 14 days after arrival. Detainees who test positive are isolated and treated in accordance with IHSC and CDC guidelines. Detainees have the right to refuse the test and are housed separate from the individuals who are tested. Detainees who refuse testing also remain cohorted for 14 days after arrival.

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: July 2, 2020

STEPHANIE MROS Digitally signed by STEPHANIE MROS Date: 2020.07.02 11:36:15 -04'00'

Stephanie Mros, MPH, BSN, RN, CCHP
LCDR, USPHS
Assistant Health Services Administrator
IHSC Special Operations Reserves
ICE Health Service Corps
Caroline Detention Facility
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants*.	Case No. 5:19-CV-01546 JGB (SHKx)

DECLARATION OF GREG DAVIES

I, Greg Davies 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) Enforcement and Removal Operations (ERO), and currently serve as a Supervisory Detention and Deportation Officer (SDDO) at the Aurora Contract Detention Facility (Aurora CDF) in Aurora, Colorado. My duty station is physically located at the Aurora CDF. I served as the Acting Assistant Officer in Charge (AOIC) at the Aurora CDF from March 2020 until June 6, 2020. I have worked in various positions in ICE since June 2006.

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. ICE contracts with the GEO Group, Inc. (GEO) for the management and operation of the Aurora CDF, including medical, dental, and mental healthcare, pursuant to a direct contracting agreement. GEO's day-to-day operations of the Aurora CDF are governed by ICE Performance-Based National Detention Standards 2011, revised 2016 (PBNDS), available online at https://www.ice.gov/factsheets/facilities-pbnds.

4. ERO is responsible for managing the immigration cases of individuals detained at the Aurora CDF. In addition, ERO is responsible for observing, identifying, and

notifying GEO of any perceived deficiencies in its adherence to the PBNDS in its management and operation of the Aurora CDF.

5. On April 10, 2020, ERO issued an update to its *ERO COVID-19 Pandemic Response Requirements (PRR)*, available online at available at https://www.ice.gov/sites/default/files/documents/Document/2020/eroCOVID19responseReqsCleanFacilities.pdf, 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. The PRR was updated on June 22, 2020 and is available online at https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf.

6. The Aurora CDF has a population below its approved capacity. The PRR recommends making efforts to reduce the detained population at ICE facilities to 75% of capacity. ERO has reduced its population at the Aurora CDF in response to the current and former PRR. ICE's current contract with GEO at the Aurora CDF is for 1280 beds. The Aurora CDF currently houses 426 ICE detainees. The facility is currently operating at 33% of capacity.

7. ERO Denver continues to arrest aliens subject to removal from the United States upon their release from local and state detention facilities and detain them at the Aurora CDF. During the week of June 11, 2020, 21 detainees were arrested upon their release from local and state detention facilities. Eleven of these detainees were removed from the United States prior to being housed in the general population at the Aurora CDF. The remaining ten were screened and cohorted according the procedures below prior to entering the general population at the Aurora CDF.

8. The Aurora CDF consists of two separate buildings, Aurora North and Aurora South.

9. The Aurora North building contains 13 total housing units, 12 of which hold ICE detainees. The housing units at Aurora North currently house between 3 and 45 detainees. Ten of the twelve housing units at Aurora North currently house half or fewer than half of their total capacity.

10. One housing unit consists of an open-style dormitory with twenty-four bunk beds and a common area. This unit is currently being used to house new detainees. This unit can hold up to 48 individuals and currently houses only 3 detainees. This unit has communal bathrooms that are open 24 hours a day.

11. The remaining 11 housing units at the Aurora North facility consist of dorm style housing units with individual cells that can house between 4 and 8 detainees. Each cell has a bathroom and a sink. These 11 housing units also have a common area with tables, televisions, telephones, outdoor recreation areas, and microwaves.

12. The Aurora South building contains 13 housing units, all of which hold ICE detainees. The housing units at Aurora South currently house between 1 and 15

detainees. All of the housing units at Aurora South house fewer than half of their total capacity.

13. All of the housing units at the Aurora South facility consist of open-style dormitories with bunk beds and can hold between 8 and 60 detainees. Three housing units are reserved for female detainees. Three housing units at the Aurora South facility are reserved for transgender detainees. The remaining housing units are reserved for male detainees. Each unit has communal bathrooms that are open 24 hours a day.

14. The Aurora CDF has two Restricted Housing Units (RHUs), one in Aurora North and one in Aurora South, which consist of individual cells that can hold either one or two detainees. The RHU at Aurora North has 46 cells designated for ICE detainees. The RHU at Aurora South has 20 cells designated for ICE detainees.

15. ERO employees at the Aurora CDF are required to wear personal protective equipment (PPE), including, at a minimum, either a surgical or N-95 facemask, while around detainees.

16. ERO at the Aurora CDF has greatly expanded the availability of telework to ERO employees at the Aurora CDF in order to encourage social distancing within ERO's office space and to reduce the risk of infection among ERO employees who have regular contact with detainees. Before the COVID-19 pandemic, 24 ERO employees regularly reported to the Aurora CDF on a daily basis; now, approximately 10-12 ERO employees report to the Aurora CDF on a daily basis.

17. As of June 2, 2020, GEO and ICE expanded COVID-19 testing at the Aurora CDF to all current detainees and new admissions, on a voluntary basis.

18. As of 8:00 a.m. on July 2, 2020, ERO has the following information regarding the population and staff at the Aurora CDF:

    a. A total of eighteen ICE detainees have tested positive for COVID-19 while detained at the Aurora CDF. Sixteen of the detainees who have tested positive were identified either during intake or while confined to the dorms designated for new detainees and before being moved to the general population.

    b. A total of 509 tests have returned negative and 49 detainees have refused testing.

    c. The Aurora CDF also houses detainees and inmates for the U.S. Marshals Service (USMS). Detainees held by the USMS are housed separately from ICE detainees. One detainee who was previously detained by ICE, but who has subsequently been detained by USMS, has tested positive for COVID-19.

19. ERO at the Aurora CDF and GEO at the Aurora CDF communicate through email, telephone calls, and weekly scheduled in-person meetings.

20. GEO handles the day-to-day operations, including the provision of medical, dental, and mental healthcare and the allocation of guards and support staff, pursuant to a

direct contracting agreement. GEO employs approximately 250 individuals at the Aurora CDF.

21. GEO at the Aurora CDF is incorporating guidance issued by the Center for Disease Control and Prevention (CDC), *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, available online at https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html, to educate its personnel and detainees and to develop its policies and practices at the Aurora CDF.

22. GEO at the Aurora CDF is incorporating the PRR.

23. Detainees at the Aurora CDF are screened for disabilities upon admission. Identified disabilities are further evaluated and reasonable accommodations are provided as medically appropriate. Since the onset of reports of COVID-19, detainees are assessed for fever and respiratory illness, are asked if they have had close contact with a person with laboratory-confirmed or suspected COVID-19 in the past 14 days, and whether they have traveled from or through area(s) with sustained community transmission in the past 2 weeks.

24. 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, including severe fever, cough, or shortness of breath, will be placed in isolation where they will be tested. The detainee will remain isolated until testing is complete. If testing is positive, the detainee will remain isolated and treated. If a detainee experiences clinical deterioration, the detainee will be taken to a local hospital.

25. Even when a new detainee does not present symptoms consistent with COVID-19 or when the detainee has not had contact with a person with laboratory-confirmed or suspected COVID-19, a new detainee at the Aurora CDF is placed in a cohort for 14 days, where they are monitored. "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 ensures that new detainees are kept separate from other detainees for the entire self-quarantine period to reduce the likelihood of an accidental transmission into the population by an asymptomatic detainee.

26. After a detainee is placed at the Aurora CDF, GEO has procedures to continue monitoring the population's health, including additional temperature checks of detainees where medical circumstances trigger the need for additional checks. Detainees can also request a COVID-19 test regardless of whether they are exhibiting symptoms.

27. In cases of known or suspected 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) and are monitored daily for fever and symptoms of respiratory illness. 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. Any detainee that shows onset of fever and/or respiratory illness is referred to a medical provider for evaluation. Cohorting is discontinued when the 14-day incubation period completes with no new cases.

28. GEO at the Aurora CDF provides daily access to sick calls in a clinical setting and has an onsite medical infirmary and access to specialty services and hospital care. According to GEO management, detainees who request sick call are generally seen within 24 hours. The onsite medical infirmary includes negative pressure rooms.

29. As a result of the reduced ICE detainee population at the Aurora CDF, GEO has worked to reduce the number of detainees housed in each dorm. The current population in each pod or dorm is approximately half of the total capacity of each unit. For detainees in pod-style housing units, detainees' cells have been reduced so that no more than two to four detainees share a cell at a single time, allowing for six feet of distance between detainees while sleeping. For detainees who are in dorm-style housing, detainees are housed with ample space between them. According to GEO management, detainees are instructed to sleep head-to-foot to increase distance between them while they sleep.

30. GEO at the Aurora CDF has increased sanitation frequency and provides sanitation supplies as follows:

a. All common areas in the facility are being disinfected multiple times per day by GEO staff and detainees. GEO at the Aurora CDF uses GS Neutral Disinfectant Cleaner from Spartan Chemical, which appears on "List N" of the Environmental Protection Agency's (EPA's) approved list of cleaners, available online at https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2. The GEO guard in each housing unit is tasked with overseeing the cleaning. These areas include detainee housing areas, law libraries, dining halls, medical areas, intake areas, door handles throughout the facility, desk, and counter surfaces in high traffic areas, lobby seating areas, restrooms, court rooms and any other areas the facility identifies as needing such cleaning.

b. The GS Neutral Disinfectant Cleaner has been made available to detainees at no cost to the detainee. Hand soap is always available to detainees at no cost to the detainee.

c. Detainees have been provided access to PPE, including surgical facemasks and gloves, at no cost to the detainee. GEO began providing detainees with surgical facemasks on April 17, 2020. GEO has provided each detainee with a surgical facemask and provides new surgical facemasks on Mondays, Wednesdays, and Fridays.

d. Alcohol-based disinfectant and hand sanitizer dispensers have been placed in lobby and internal facility areas for public and staff use. Due to safety concerns,

detainees do not have access to alcohol-based disinfectant, but do have access to the GS Neutral Disinfectant Cleaner.

e. Detainees have been educated on best practices to keep from spreading any contagions. Educational posters with illustrations demonstrating good hygiene practices have been placed throughout the facility to include detainee living areas.

f. GEO employees at the Aurora CDF have been provided PPE gear at no cost to the employee. GEO has also provided its employees with information on how to use PPE and how and when to use PPE. GEO has informed ICE that, as of April 22, 2020, GEO employees at the Aurora CDF are required to wear a facemask when interacting with detainees.

31. GEO at the Aurora CDF has limited professional visits to noncontact visits and suspended in person social visitation and facility tours.

32. GEO at the Aurora CDF is screening all staff and vendors when they enter the facilities, including taking body temperatures and requiring they fill out a written questionnaire.

33. GEO at the Aurora CDF provides education on COVID-19 to staff and detainees to include the importance of hand washing and hand hygiene, social distancing, covering coughs with the elbow instead of with hands, and requesting to seek medical care if they feel ill. GEO affixes posters to the walls throughout the Aurora CDF that explain how to help avoid coming in contact with and transmitting COVID-19. GEO has also held town halls with detainees to discuss COVID-19 and each housing unit is equipped with an informational television where GEO can share information about COVID-19 with detainees.

34. ICE and GEO at the Aurora CDF have continued to work to ensure that detainees' access to dayrooms, outdoor recreation facilities, and telephones has been minimally impacted by COVID-19 while still promoting social distancing.

a. Detainees at the Aurora CDF continue to have access to dayrooms and recreation facilities on a rotating basis. Dayroom and other common areas are rotated one tier at a time. Dorms generally consist of two tiers, one upstairs and one downstairs.

b. In accordance with Colorado Governor Jared Polis' statewide guidance, GEO has decreased the number of individuals allowed in a day room at any given time and GEO requires detainees to practice social distancing in the dayroom and outdoor recreation facilities by maintaining six feet of separation between detainees. Dayrooms are disinfected after each group.

c. During this time, detainees also have access to telephones, law library computers, and tablets, all of which are cleaned with disinfectant after each use. Detainees may also arrange for attorney calls outside of this normal time period. Detainees can contact their lawyers either through phone or tablet. Detainees always have access to a private room while talking with their attorneys.

Guadalupe Flores-Hernandez

35. Mr. Flores-Hernandez's custody was reviewed on April 29, 2020, pursuant *Fraihat v. ICE*, No. 19-01546 (C.D. Cal. filed Aug. 19, 2019). After an individualized review of his case, including his identified medical conditions, ICE concluded that continued detention was warranted, in part, because of his criminal conviction for sexual assault on a child.

36. A subsequent humanitarian parole request and custody determination was considered after ICE communicated with Mr. Flores-Hernandez's attorney, Lindsay Bailey.

37. On May 14, 2020, after an individualized review of Mr. Flores-Hernandez's custody, including his medical and criminal history, ICE decided to continue detention and communicated that decision to his attorney, Ms. Bailey.

38. Precautions were taken to ensure that Mr. Flores-Hernandez's specific medical needs were addressed.

39. ICE received additional correspondence from Mr. Flores-Hernandez's attorney, Ms. Bailey, on May 20, 2020, requesting further information about Mr. Flores-Hernandez's prior custody reviews and the medical precautions in place. On May 21, 2020, ICE informed Ms. Bailey that Mr. Flores-Hernandez's medical history was reviewed, and that release was denied based on his conviction for sex assault on a child, for which he received a sentence of 10 years to life. ICE also referred Ms. Bailey to the publicly available information on the ICE website regarding precautions taken at ICE detention facilities concerning COVID-19.

40. On May 22, 2020, Mr. Flores-Hernandez's request for a custody redetermination before an immigration judge was denied because of his conviction for sex assault on a child.

41. Mr. Flores-Hernandez was ordered removed to Mexico by an immigration judge on June 11, 2020, and he was removed to Mexico on June 16, 2020.

Oscar Manuel Perez Aguirre

42. Mr. Perez Aguirre was screened at intake on May 15, 2020, in accordance with the procedures detailed in paragraph 23 above. Because he came to the Aurora CDF from a state facility with known COVID-19 exposure, Mr. Perez Aguirre was isolated as a precautionary measure.

43. Mr. Perez Aguirre was never housed in an RHU or disciplinary segregation.

44. Mr. Perez Aguirre currently shares a four-person cell with one other person. The dorm that Mr. Perez Aguirre is housed in has a capacity of 80 people, and there are currently 37 other detainees detained in this dorm.

45. Because the dorms at the Aurora CDF are operating at approximately half of their capacity, and because only half of those dorms are in the dayrooms at any given time, as discussed in paragraph 34 above, there is sufficient distance at the Aurora CDF for the detainees to practice social distancing.

46. Mr. Perez Aguirre, like all other detainees at the Aurora CDF, receives a new surgical face mask on Mondays, Wednesdays, and Fridays. GEO cannot force detainees to wear face masks, however, it is strongly recommended.

47. Mr. Perez Aguirre's dorm was placed on cohort on June 19, 2020, in accordance with the procedures outlined in paragraph 27 above, because of a detainee's possible exposure to COVID-19.

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, information and belief.

DATED: 7/2/20

Greg Davies
Supervisory Detention and Deportation Officer
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

EXHIBIT 10

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants*.	Case No. 5:19-CV-01546 JGB (SHKx)

Pursuant to 28 U.S.C. § 1746, I, George A. Sterling Jr., do hereby declare:

1. I am employed by the United States Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO). I am a Deputy Field Office Director (DFOD) within the ERO Atlanta Field Office. I was detailed to this position in November 2016, and formally entered on duty in February 2017. I have worked in various other positions within ICE and the former Immigration and Naturalization Service since June 1996.

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. As a DFOD, I supervise those officers who are responsible for managing the detained docket for the aliens who are detained at the Folkston ICE Processing Center (FIPC), Stewart Detention Center (Stewart), and Irwin County Detention Center (Irwin). My primary responsibilities include immigration case management for those aliens detained at Stewart, and Irwin as well as general oversight responsibilities for ICE interests, including monitoring of compliance with the Performance Based National Detention Standards 2008 and 2011 (PBNDS).

4. ICE is charged with removing aliens who lack lawful immigration status in the United States. Detention is an important and necessary part of immigration enforcement. ICE detains aliens to secure their presence for immigration removal proceedings and effectuate their removal from the United States with a special focus on those who are a risk to public safety or for whom detention is mandatory by law.

5. ICE contracts with the GEO Group Inc. (GEO), for the management and operation of FIPC, pursuant to an Intergovernmental Service Agreement (IGSA).

6. Conditions of detention at FIPC are governed by the ICE Performance-Based National Detention Standards 2011 (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.

7. ERO is responsible for managing the immigration cases of detained aliens at FIPC. In addition, ERO is responsible for monitoring GEO to determine its level of compliance with PBNDS 2011 in its administration,management and operation of FIPC.

8. FIPC has the capacity to house 1,125 detainees in the main and annex facilities combined. As of 3:43 p.m. on July 1, 2020, there are 483 detainees housed at FIPC. There are 357 detainees at FIPC Main which has a capacity to house 778 detainees. There are 121 detainees housed at FIPC Annex which has a capacity to house 340 detainees. In addition, 5 of 7 medical beds are occupied between the two facilities.

9. ICE Health Service Corp (IHSC) provides direct medical, dental, and mental health patient care to approximately 13,500 detainees housed at 20 IHSC-staffed facilities throughout the nation.

10. IHSC's Field Medical Coordinators 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 IGSAs 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.

11. IHSC comprises a multidisciplinary workforce that consists of U.S. Public Health Service Commissioned Corps (USPHS) officers, federal civil servants, and contract health professionals.

12. At this time, there are 7 ICE employees stationed at FIPC.

13. On April 10, 2020, ICE Enforcement and Removal Operations (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. An updated version of the PRR was released on June 22, 2020.[1]

14. 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.[2]

15. 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.

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[1] https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf

[2] 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.

16. Each detainee is screened for disabilities upon admission by medical professional. Identified disabilities are further evaluated and reasonable accommodations are provided as medically appropriate.

17. 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.

18. In addition, effective June 23, 2020, during intake medical screenings each new detainee is offered voluntary COVID-19 laboratory testing and information regarding COVID-19 protection and prevention.

19. All arriving detainees are placed under medical isolation in a two bed housing unit during a 14-day intake quarantine period to avoid potential exposure to other detainees. Detainees arriving within 48 hours each other may be housed together. During the 14-day intake quarantine period, detainees are released from medical isolation into the common area of the housing unit by individual cell, one or two detainees at a time, for a minimum of one hour to avoid contamination of common areas. The common area is disinfected between each group.

20. Other movement restrictions in effect within the facility include migration to satellite feeding, where detainees receive meals in the housing units rather than the dining hall, and medical sick call being performed by housing units to avoid intermingling detainees.

21. If the detainee voluntarily consents to the COVID-19 test and receives negative results, or if a detainee refuses a voluntary COVID-19 test but is otherwise asymptomatic, the detainee may be released to general population following the 14-day intake quarantine period.

22. The facility has increased sanitation frequency and provided sanitation supplies, including providing disinfectant, towels, soap, and gloves to the housing units daily. In addition, housing units and common areas are sanitized every 2 hours each day

23. GEO provides detainees daily access to sick call.

24. Detainees are issued masks three times per week on Monday, Wednesday, and Friday. Gloves are available daily within the housing units.

25. 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.

26. In addition, ICE has reviewed and continues to review the custody determinations of detainees pursuant to the preliminary injunction ordered in *Fraihat, et al. v. U.S. Immigration and Customs Enforcement, et al.,* 5:19-cv-01546 (C.D. Cal.), Dkt. 132, which required ICE to make timely custody decisions for all detainees with risk factors.

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 belief

DATED: July 2, 2020

George A. Sterling Jr.
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

EXHIBIT 11

FOURTEENTH AMENDED DECLARATION OF ALFARO ORTIZ

I, Alfaro Ortiz, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the Director of the Essex County Correctional Facility ("ECCF"), which is located at 354 Doremus Avenue, Newark, New Jersey. In November 2006, I was hired by Essex County as Deputy Director at ECCF. In 2009, I became the Director and have served in that capacity to date. As Director, my areas of responsibility include, among other things, custodial operations, special investigations division, training division, business office, outside vendor contracts, policy and procedure, scheduling, facility maintenance, and information technology.

2. The mission of ECCF is to ensure that all persons committed to ECCF are confined with the level of custody necessary to protect the public while providing care, discipline, training, and treatment in preparation for reintegration into the community.

3. ECCF houses male and female adult inmates whose incarceration is necessary to ensure a court appearance. In addition, ECCF houses federal inmates and U.S. Immigration and Customs Enforcement ("ICE") detainees pursuant to an Inter-Governmental Service Agreement. ECCF houses inmates and detainees in four separate buildings. ICE detainees are housed separately from inmates. Inmates and detainees do not come into contact with each other inside the facility.

4. ECCF can house a maximum capacity of 2368 inmates and detainees. During the year 2019, ECCF housed on average 2000 inmates and detainees per

day. As of June 28, 2020, ECCF's total population was 1538. ECCF is at approximately 65 percent of its maximum capacity. ECCF is not overcrowded.

5. The buildings where ICE detainees are housed are divided into pods. The number of inmates per pod varies. The majority of the pods have 64 beds. ECCF has a building that is used to house ICE detainees that is set up as dorms. The dorms were originally configured to house 60 detainees per pod, but have been reduced to a maximum of 48 detainees.

6. The cells in the buildings have two beds each. These are bunk beds. In the dorms, there are bunks around the perimeter of the dorm. In the center of the dorm, there is a seating area and recreation yard. Every unit has a unit representative. ECCF has provided handouts in multiple languages regarding steps to avoid COVID-19. ECCF also plays public service announcements on the video screens. Within the pods, inmates have the space to sit at least six feet apart. There is also a passive recreation area. The spacing in the buildings allow for inmates and detainees to practice social distancing of the recommended six feet.

7. Within the dorms, the bunk beds are not spaced six or more feet from one another. The beds are bolted to the ground. Additionally, the top and bottom beds are not spaced six feet apart, based on how the beds are constructed. However, there is a metal and mattress barrier dividing that space.

8. Where possible in light of the number of detainees or inmates housed at ECCF, ECCF is spacing detainees and inmates out by skipping over beds when assigning individuals to beds, in order to create additional distance between

occupied beds. Detainees and inmates may also sleep in a head to foot configuration, which provides six feet of horizontal distance between bunkmates.

9. ECCF staff regularly reminds detainees and inmates to maintain social distance if they observe detainees who are not remaining socially distant.

10. I am familiar with the measures that ECCF has taken in response to the global pandemic of Coronavirus Disease 2019 (COVID-19).

11. Each inmate and detainee is screened for disabilities upon admission and their temperatures are checked. Identified disabilities are further evaluated and reasonable accommodations are provided as medically appropriate.

12. The health care of our inmates and detainees is now, and has since March 2008, been administered by CFG Health Systems under the supervision of Dr. Anicette, the on-site facility physician. Due to the COVID-19 outbreak, additional Essex County medical staff are now on-site 24/7 to provide full coverage for all detainee/inmate medical needs. In addition, there is an on-site medical 42-bed infirmary supervised by Dr. Anicette.

13. Medical personnel at ECCF consist of a staff composed of medical doctors, RNs, LPNs, nurse practitioners, and physician assistants. There are always two RNs and LPNs in the building. There is also a nurse practitioner in the facility 24 hours a day, seven days a week. A physician is at the facility 16 hours a day, seven days a week. A physician is on-call on a 24-hour basis for any emergency needs.

14. A nurse visits every housing unit twice daily, at which time detainees or inmates may report any health problems. If a detainee or inmate reports experiencing COVID-19 symptoms to a staff member outside of those times, then depending on the severity of the symptoms, the staff member can call the nurse's office for an immediate triage assessment. The nurse will then decide whether the detainee or inmate should be seen by medical immediately or whether the person can wait to be assessed until the twice-day nurse rounds.

15. Since early February 2020, ECCF correctional and medical staff, in conjunction with the New Jersey Department of Health, Centers for Disease Control and other public health and correctional institutions, have been tracking the outbreak, regularly updating infection prevention and control protocols, and issuing guidance to all staff on screening and management of potential exposure among detainees/inmates.

ECCF COVID-19 Protocols

16. In early March 2020, ECCF began to take several measures to ensure the health and safety of all inmates, detainees, and staff in light of the COVID-19 global pandemic. ECCF has continued to develop these measures as the situation surrounding COVID-19 continues to rapidly develop.

17. The ECCF facility was designed with air handlers and a purge system in every housing unit, including the housing unit where the ICE detainee in this case is housed, which enables ECCF to re-circulate the air within the facility every four hours. The air handler brings in 100% outside air into the unit and the purge

system exhausts 100% of the air in the unit out. Fresh air is circulated in the housing units throughout the day.

18. The ECCF facility has four negative pressure rooms that are available in the ECCF infirmary to house any individuals affected by COVID-19, or a variety of health conditions including tuberculosis.

19. Since on or about the first week March, ECCF took the following measures regarding COVID-19:

a. Suspended all classes being conducted by volunteers or part-time workers;

b. Transitioned from a three-month to a six-month inventory of supplies for all needed items;

c. Educated ECCF staff regarding protocols and best practices to prevent the spread of COVID-19;

d. Educated inmates and detainees on the importance of hand washing and best practices to prevent the spread of COVID-19 including covering coughs with the elbow instead of with hands, practicing social distancing, and requesting to seek medical care if they feel ill. ECCF provides detainees daily access to sick call;

e. Established a new protocol in conjunction with the Port Authority Police for the handling of prisoners from Newark Airport;

f. Established a new protocol to be followed by the ECCF Medical Department for the handling of inmates or detainees who may suffer from health conditions identified by the CDC as putting them at a high risk of developing serious complications from COVID-19. This protocol includes daily monitoring of these inmates and detainees and the establishment of a plan to remove the inmates from the rest of the population should the need arise. The Medical Department has further transitioned to telemedicine for all outside consultations and has postponed all elective Medical Procedures;

g. Increased monitoring of all inmates and detainees for symptoms or signs of illness;

h. Established and cleared a designated quarantine area;

i. Worked with ECCF's food service provider to ensure the following:

i. 30 days of meals will be on hand at the facility;
ii. Available freezer space for 14 days of frozen meals;
iii. Extra staff to work in the ECCF kitchen;
iv. Sanitization of the ECCF kitchen every hour;
v. All items in the Officers Dining Room are "grab and go." There are no longer self-serve items;
vi. Established a transportation plan for employees in the event public transportation is curtailed.

j. Provided meals to inmates and detainees within their pods. Meals are eaten within the cell or in passive recreation areas. Inmates and detainees are encouraged to avoid congregating.

k. Suspended all outside work programs for inmates and detainees, such as the SLAP program;

l. Suspended all religious services conducted by outside volunteers;

m. Hired additional staff to provide additional cleaning and sanitizing of the facility, and implemented all CDC recommended cleaning and disinfection protocols beyond normal activity. All housing units are sanitized no less than three times per day including at the change of every shift. Staff work through the late-night hours to ensure that the facility is cleaned and disinfected including all high touch surfaces. After every court movement, the intake/property area is cleaned and sanitized;

n. Transitioned all attorney and contact visits to window visits only and expanded the window visit schedule. All detainees and inmates were separated from visitors by a glass partition;

o. Limited entrance to ECCF for staff and employees to a single, monitored door;

p. Initiated health screening for all Corrections Officers, civilians, and outside vendor staff every time they enter the building. Prior to entering the facility, staff members and vendors must receive medical screening by the medical staff, which includes having their temperatures checked. These medical screenings are conducted

outside of the facility. Anyone who exhibits any signs is not allowed to enter the facility;

q. Posted CDC and Department of Health signs throughout ECCF, including all housing units, employee entrances, workstations and the visitor lobby area. These signs provide educational information encouraging proper washing of hands and other infection avoidance best practices such as social distancing;

r. Added a nurse to the pre-booking process so that every detainee and inmate who enters the facility is given a health check that includes taking his or her temperature before entering the building. This pre-booking process also includes a full screening including travel and medical histories.

20. Following the implementation of the measures described above, ECCF has continued to establish additional precautionary measures as the situation regarding COVID-19 continued to develop. For example:

a. During the week of March 16, 2020, ECCF contracted with a lab vendor to acquire 50 testing kits for COVID-19. ECCF anticipates that this will be an initial order with additional testing kits to be provided to ECCF as kits become available;

b. On or about March 19, 2020, ECCF (a) implemented a regular call amongst all County Wardens to discuss best practices; and (b) canceled all assembled "roll calls" for officers at the start of their shifts;

c. On or about March 21, 2020, the ECCF office of Inmate/Detainee Advocate began relaying email messages from attorneys directly to their clients to set up phone conferences;

d. As of March 22, 2020, ECCF disallowed visitation for all family and friends of ECCF inmates and detainees;

e. On or about March 23, 2020, ECCF implemented the following:

i. Assigned an officer at the Facility's Visitor entrance to ensure that only Lawyers, ECCF staff and Newark City Buses enter and exit the grounds;

ii. Established a policy that any newly confined inmates and detainees entering the facility will be quarantined for 14 days, as opposed to the original three days, to ensure they do not display any symptoms related to COVID-19 before being assigned to a housing unit. These inmates and detainees have their temperatures taken twice daily;

iii. Modified inmate and detainee recreation groups to limit close interaction with other inmates and detainees. Reduced the number of inmates having recreation at the same time by one half to foster social distancing;

iv. Implemented further actions regarding the ECCF kitchen area to ensure food safety;

v. Coordinated with the U.S. Marshals to implement video conferencing within ECCF, within proximity to inmates and detainees, so that they can continue to have their cases heard. This will further minimize movement and contribute to social distancing.

vi. Allowed all inmates and detainees a free daily five (5) minute telephone call.

f. On or about March 24, 2020, ECCF began operating its kitchen using all civilians and stopped using detainee/inmate labor.

g. ECCF facilitates confidential telephone calls between detainees and inmates and their attorneys. Every housing area has a set of tablets that inmates and detainees can use to make telephone calls. Attorneys may contact the Inmate/Detainee Advocate to arrange for a telephone call with their client. The inmate or detainee can use headphones while speaking with their attorney.

h. On or about March 25, 2020, ECCF ordered an additional storage unit to be placed on the premises to hold supplies.

i. On or about March 26, 2020, ECCF received 1008 Tyvek suits. ECCF has also received 1,200 N95 masks, and 29,900 blue surgical masks.

j. On or about March 26, 2020, ECCF stopped admitting new ICE detainees. The only new ICE detainees are individuals who are rolling over from county custody into ICE custody based on a detainer.

k. On or about April 1, 2020, ECCF opened a dedicated room within the visitor's lobby wired to support video conferencing capability between inmates and detainees and their attorneys at the facility.

l. From the POD, inmates and detainees can make a non-confidential calls to the attorneys for 15 minutes. Advocates can initiate calls to inmates or detainees on a confidential line for up to 99 minutes.

21. All staff members are provided with surgical masks and gloves when they report to work. Staff wear masks at all times at ECCF. Staff have also been provided with safety goggles, for use at their discretion.

22. Detainees and inmates are provided masks if they exhibit symptoms consistent with COVID-19. Detainees and inmates who perform facility cleaning on work detail are provided gloves.

23. N95 masks are reserved for higher risk situations. N95 masks are worn by: (1) detainees or inmates with moderate to severe COVID-19 symptoms who are being transported to the hospital; (2) staff members transporting such detainees or inmates; (3) medical staff working with detainees or inmates with moderate to severe symptoms; (4) detainee or inmate workers who perform cleaning of rooms that housed persons with moderate to severe symptoms; (5) officers who transport or come into contact with inmates or detainees who are being admitted to the facility; and (6) staff working in the lobby area or who otherwise interact with any members of the public coming to the facility.

24. Staff is provided alcohol-based hand sanitizer. For safety reasons, the facility is unable to provide alcohol-based hand sanitizer to detainees or inmates. However, detainees and inmates have free access to soap. It is ECCF's

understanding, consistent with guidance provided by the CDC and the New Jersey Department of Health, that soap is at least as preferable, if not more effective, than alcohol-based sanitizer at protecting against COVID-19 infection.

25. As of Sunday, June 7, 2020, ECCF had the following cleaning supplies and personal protective equipment in stock, as part of its COVID-19 efforts:

a. 1552 cases of soap;

b. 28,250 surgical masks;

c. 2,850 N95 masks;

d. 1,030 face shields;

e. 555 cases of Envirox sanitizer;

f. 60 cases of Envirox critical care sanitizer;

g. 753 cases of single-ply paper towels;

h. 216 cases of trifold paper towels;

i. 1176 cases of bleach;

j. 618 cases of size XL rubber gloves;

k. 376 cases of size L rubber gloves;

l. 165 gallons of alcohol-based sanitizer; and

m. 2,975 Tyvek suits.

26. Common spaces and equipment are sanitized regularly. ECCF has both telephones and tablets available for detainee and inmate use. The telephones and tablets are cleaned between uses by designated detainee or inmate workers, who are supervised by ECCF staff. Toilets are similarly cleaned between uses by

designated cleaners. The detainees and inmates who are assigned to perform these cleaning tasks are provided with gloves and masks. Cleaning agents are available in the showers for detainees and inmates to clean those areas themselves between uses.

27. ECCF has provided education to detainees and inmates about COVID-19 in multiple formats and languages. Signs are posted throughout the facility in English and Spanish with educational information. ECCF has also provided live and video presentations about COVID-19, including by bringing in a representative from the New Jersey Department of Health. During live presentations, individuals are spaced six or more feet apart.

28. In testing for COVID-19, ECCF is following guidance issued by the Centers for Disease Control to safeguard those in its custody and care. As such, ICE inmates and detainees who complain of illness are immediately evaluated by medical staff. Detainees and inmates who feel any symptoms of illness can make daily sick calls as needed; they can submit requests via tablet or to nurse that comes in the unit twice per day. If an inmate or detainee exhibits signs or symptoms of COVID-19, including respiratory illness, they will be provided a surgical mask.

29. Detainees or inmates with mild symptoms, i.e., those that can be managed at ECCF, will be clinically assessed and treated at ECCF as presumptively positive for COVID-19. Diagnostic swab testing for COVID-19 is not performed in-house at ECCF. Detainees or inmates with moderate to severe

symptoms (for example, oxygen levels or temperatures that cannot be medically managed at ECCF) are sent to the local hospital. The hospital will perform a diagnostic test for such patients upon admission.

30. ECCF uses University Hospital to test any detainees who require testing for COVID-19. Moderate to severely symptomatic detainees are immediately transported to the hospital for medical evaluation. In accordance with the hospital's policy, mildly symptomatic detainees are transferred to the quarantine area within ECCF. If an inmate or detainee is positive for COVID-19, and does not require hospitalization, the detainee will return to ECCF and be isolated in a cell in a designated area to house individuals who have tested positive for COVID-19.

31. Those inmates and detainees who are symptomatic pending testing results are evaluated by the medical severity and started on anti-viral medications. Vitals including temperatures are monitored on a daily basis and inmates and detainees are evaluated for hospital placement. Inmates or detainees who are placed in quarantine stay there for 14 days. Currently, there is a combined total of 11 inmates and detainees in quarantine.[1] None of those individuals have exhibited symptoms that require a higher level of care at this time. Due to logistical and

[1] ECCF is taking a proactive approach to the use of quarantine to contain the spread of COVID-19. An inmate or detainee could be placed in quarantine for any of the following reasons: (1) close contact with an officer or staff member who is reported positive; (2) close contact with a detainee or inmate who is reported positive; (3) close contact with a detainee or inmate who reported symptoms; (4) the detainee or inmate is showing mild symptoms; or (5) based on the results of ECCF's rapid antibody screening test discussed in paragraphs 45 and 46 below.

personnel constraints, ECCF does not take daily temperature readings of the remainder of the detainee / inmate population, unless an individual is reporting symptoms that would require a medical screening.

32. The inmates and detainees who are placed in quarantine at ECCF are placed in single-occupancy cells. Those cells have closed walls and doors. There is also a food port with a flap, through which food can be passed in and out.

33. Detainees who have had a known exposure to a confirmed case of COVID-19, but are asymptomatic, will be housed together. This process is known as cohorting. Cohorted detainees remain isolated for a period of 14 days. If no new COVID-19 case develops in 14 days, the cohorting of these detainees will terminate. This unit is operating under capacity, and therefore allows ample room for social distancing for any detainees who must be cohorted in this unit. In addition to the cohorting described above, new admissions to the facility who enter with a group are housed together, in single occupancy cells, for a period of 14 days.

34. Any detainee or inmate who is symptomatic of COVID-19 is placed in a special unit. Within that unit, these individuals are housed separately and isolated from one another.

35. Our medical provider has assured ECCF that we have on hand the appropriate personal protective equipment and other equipment to meet our needs to combat COVID-19 and protect health care workers and other staff.

36. I am aware that some ICE detainees have alleged that there is insufficient soap and disinfectant at ECCF. That is not true. Detainees have

unlimited access to soap and unlimited access to water. In fact, some detainees keep multiple bars of soap in their personal area. Some detainees have alleged that they do not have soap because the soap being provided is not antibacterial soap, but such soaps are not called for in the CDC guidelines. Regular soap is sufficient. As to disinfectant spray, it is available to detainees for use in additional cleaning upon request to the correctional staff. Since the cleaning solution contains bleach, the correctional officers have to control it because it presents a safety hazard if the solution is sprayed in a person's eyes.

37. ECCF is receiving additional deliveries of soap every three days. Every housing unit at ECCF receives two boxes of soap containing 120 bars. This is far in excess of the number of persons in each unit. ECCF's warehouse currently has an eleven-month supply of soap.

38. There are never more than 64 federal criminal inmates in a unit. There is enough soap for each inmate or detainee to have at least three bars at all times. Moreover, ECCF does not wait until the soap is gone before giving inmates and detainees new soap. Inmates and detainees can request soap at any time, and they are provided soap upon request.

39. Historically, inmates and detainees have been limited to three bars of soap and any additional soap would be confiscated. ECCF now allows all inmates and detainees to have four or five bars of soap at a time. ECCF is not confiscating soap or writing anyone up for having extra soap. ECCF is encouraging inmates and detainees to use soap as frequently as possible.

40. While the bunkmates in two-person cells share a sink, bunkmates do not share soap. Each federal criminal inmate and each detainee has his or her own soap, which the inmate or detainee can keep separate from the soap used by others. Federal criminal inmates and detainees can wash their hands at any time.

41. At ECCF there are three shifts per day. At the beginning of each shift, each officer is issued a spray bottle with a disinfectant that is comprised of two parts water and one part bleach. That spray bottle is refilled and replenished throughout the shift as necessary. Throughout the shift, porous surfaces and frequently touched items are disinfected – first with sprays of solution and wiped down, and second with a spray that is left to air dry.

42. The disinfectant cleaning solution is prepared twice a day and delivered to every housing unit at 6 a.m. and 2 p.m. The administration is encouraging both staff and the facility general population to use these tools often and liberally.

43. Federal criminal inmates are allowed to get the disinfectant spray when they are out of their cells. For security purposes, only 32 inmates are allowed out of their cells at a time. The remaining inmates are locked in. The movements operate in the following manner: (a) after the 6 a.m. count, the first half of the unit gets trays and eat in their cells. The second half of the unit then gets their trays and eat in their cells; (b) between 7 a.m. and 8 a.m., the first half of the unit is allowed out of their cells when they can shower, make telephone calls and sanitize their cells; (c) after the 10 a.m. count, the second half of the unit is allowed out of

their cells; (d) lunch is served prior to 1:30 p.m., following the rotation system set forth above; (e) a lockdown occurs at 1:30 p.m. and a count is conducted at 2 p.m.; (f) at approximately 2:30 p.m., the cycle repeats with the first half of the unit released again; (g) inmates are locked back in at 4 p.m.; (h) the same tray rotation is used during dinner. After dinner, the second half of the unit is released again; (i) all inmates are locked back in between 9 p.m. and 9:15 p.m.; (j) the entire unit is thoroughly sanitized after everyone is locked in for the night.

ECCF COVID-19 Cases

44. As of 9:00 a.m. on June 29, 2020, ECCF has identified the following cases of COVID-19, confirmed by laboratory testing, amongst ECCF inmates, detainees, and staff: (a) 8 ICE detainees[2], there were no new positive test results the past four weeks; (b) 3 county inmates one of whom is currently housed at ECCF, the other 2 have been released, there were no new positive test results the past two weeks; (c) a cumulative total of 17 county inmates at Delaney Hall; 6 of those inmates are no longer in custody. Delaney Hall is located across the street from the ECCF facility and is not part of the same building where ICE detainees are currently housed; (d) 94 members of the ECCF correctional staff, 85 of whom have been cleared and returned to work, there were 3 new positive test results since last week; and (e) 4 members of the civilian staff, all of whom have been cleared and returned to work, there were no new positive results since last week. All staff who

[2] One of the ICE detainees was sent to the hospital after he was in an altercation and required sutures for a laceration in his lip. All of his vitals at that time were well within normal limits.

were in proximity of those testing positive were either sent home to self-quarantine for the recommended 14-day time period, or to the hospital for further treatment.

45. As of today, there is no mandate for testing the entire ECCF population by any federal, state or county health agency. Until April 10, 2020, ECCF's testing has focused on people with symptoms consistent with a COVID-19 infection and first responders at the hospital. Nevertheless, ECCF is in the process of testing its entire population using rapid testing antibody screening. Rapid testing for antibodies is different from laboratory testing for COVID-19. The expanded testing is part of ECCF's containment and quarantine strategy. The testing is a supplementary screening tool done through a blood test to minimize the risk to healthcare providers. ECCF is housing inmates and detainees based on the results of the antibody screening.

46. Currently, if a detainee or inmate in a housing unit shows symptoms of COVID-19 or tests positive for COVID-19, then ECCF will perform antibody testing on all other detainees or inmates who were housed with that individual. Further treatment and housing decisions will be made based on those test results in accordance with the procedures described in the Declaration of Dr. Lionel Anicette dated May 4, 2020.

47. ECCF has conducted medical reviews for each of the detainees and inmates housed at ECCF. Detainees or inmates with chronic conditions that place them at higher risk for COVID-19 are placed in a special needs unit if those

conditions are not well-controlled. Individuals with chronic conditions, such as diabetes, that are well-controlled remain in the general population.

48. The correctional officers who work with those detainees or inmates at higher risk for COVID-19 use full PPE including Tyvek suits, N95 masks and gloves.

I, Alfaro Ortiz, declare under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.

Executed on: June 29, 2020

Alfaro Ortiz, Director
Essex County Correctional Facility

EXHIBIT 12

FOURTEENTH AMENDED DECLARATION OF DIRECTOR RON EDWARDS

I, Director Ron Edwards, make the following statements under oath and subject to the penalty of perjury:

1. I am currently employed as the Director of the Hudson County Department of Corrections and Rehabilitation, which oversees the Hudson County Corrections Center (the "HCCC") located at 30-35 South Hackensack Ave. in Kearny, New Jersey. I have held this position since August 2017.

2. As Director, my areas of responsibility include, among other things, custodial operations, special investigations division, training division, business office, outside vendor contracts, policy and procedure, scheduling, facility maintenance, and information technology. HCCC's purpose is to protect and serve the public. The facility's primary functions are to hold individuals awaiting arraignment, trial, conviction, or sentencing with the level of custody necessary to protect the public while providing care, discipline, training, and treatment in preparation for reintegration into the community.

3. In addition to housing state inmates, HCCC houses federal inmates and U.S. Immigration and Customs Enforcement ("ICE") detainees pursuant to an Inter-Governmental Service Agreement. HCCC can house a maximum capacity of 1400 inmates and 328 ICE detainees. During the first three months of this year, HCCC housed on average 600 inmates and 300 ICE detainees per day. HCCC's current inmate and detainee population is 702 of which 92 are ICE detainees. HCCC is operating well under its maximum capacity.

4. Within HCCC, ICE detainees are housed in their own housing units separately from federal and state inmates. There are five housing units used exclusively to house ICE detainees. ICE detainees do not come into contact with inmates within the facility. There are separate correctional staff assigned to the ICE detainees. The correctional staff assigned to work with state and federal inmates do not have contact with the ICE detainees.

5. The HCCC facility was designed with air handlers and a purge system in every housing unit, which enables HCCC to re-circulate the air within the facility every four hours. The air handler brings in outside air into the unit when dampers are open. Currently we have dampers open. Fresh air is circulated in the housing units throughout the day.

6. I am familiar with the measures taken at HCCC in response to the global pandemic of Coronavirus Disease 2019 (COVID-19).

7. The health care of our inmates and detainees is currently administered by Wellpath under the supervision of Dr. Woodward, the on-site facility physician. Due to the COVID-19 outbreak, additional Hudson County medical staff, including RNs and LPNs, are now on-site 24/7 to provide full coverage for all detainee/inmate medical needs. The facility physician is on call on a 24-hour basis for any emergency needs. In addition, there is an on-site medical infirmary supervised by Dr. Woodward.

8. Since March 3, 2020, HCCC correctional and medical staff, in conjunction with the New Jersey Department of Health, Centers for Disease Control,

and other public health and correctional institutions, have been tracking the COVID-19 outbreak, regularly updating infection prevention and control protocols, and issuing guidance to all staff on screening and management of potential exposure among detainees/inmates.

HCCC COVID-19 Protocols

9. In early March 2020, HCCC began to take several measures to ensure the health and safety of all inmates, detainees, and staff in light of the COVID-19 global pandemic. HCCC has continued to develop these measures as the situation surrounding COVID-19 continues to rapidly develop.

10. The cells in the housing units are approximately 10' x 7'. There are two beds per cell in HCCC housing units. These are bunk beds. There are no more than two inmates or detainees per cell, one per bed. Apart from the beds there is 70.6 square feet in the cells. Most of the detainees are housed in a cell by themselves. There are some exceptions for cases where a detainee has a mental health condition. HCCC has one isolation wing in operation that can accommodate 48 people.[1] The isolation wing has separate air handling. There is another wing on standby to be used as an isolation wing if necessary.

11. Due to the COVID-19 crisis, each Housing Unit is on a "Restrictive Schedule." Any time that inmates and detainees spend outside of their cell involves appropriate social distances. Under the Restrictive Schedule, inmates and detainees

[1] Isolation for medical purposes is different from disciplinary segregation. The facility uses medical isolation when it is necessary for public health. Disciplinary segregation includes the removal of privileges such as commissary and visits.

are permitted out of their cells for two three and one-half hour periods during the day. The areas outside of the cells that the inmates use are being cleaned continuously during a 16-hour period during the day. Additionally, inmates and detainees may request disinfectant wipes from staff. Each Housing Unit is "locked down" between shifts to clean and sanitize. All housing units are sanitized no less than three times per day.

12. HCCC has implemented, and continues to implement, the following measures pertaining to intake due to the COVID-19 crisis:

a. As of March 7, 2020, HCCC has stopped accepting any ICE detainees that:

   i. Have been in China, Italy or Iran within the last 31 days.

   ii. Were arrested at the border.

   iii. Were arrested in the United States but have not been tested for COVID-19 and medically cleared.

b. In addition, HCCC has revised its intake procedures as follows:

   i. Prior to booking a new inmate or detainee, a registered nurse will take the prisoner's temperature in an external holding area before the inmate or detainee enters the facility. Any person with a temperature over 100.4 degrees will be denied entry and must be transported by the arresting agency to a hospital.

   ii. All new arrests are given a comprehensive medical assessment by a registered nurse within four hours of their coming into the facility. The assessment includes a battery of questions as to history of countries they have visited within the last two weeks as well as hospitalization and visits to emergency care facilities.

   iii. Hand sanitizers are available to all individuals coming into the facility.

   iv. After every court movement, the entire Intake/Property area is shut down so it can be cleaned and sanitized.

v. At the change of shift, the Intake/Discharge area – including Property, External Holding Area, and Bullpens – is cleaned and sanitized.

vi. The occupancy of the Bullpens has been reduced from 29 to 9 inmates.

vii. HCCC established a policy that any newly admitted inmates and detainees are placed in "locked down" to prevent potential contamination. They are not assigned to a housing unit until they have been medically cleared.

c. As of March 7, 2020, prior to entering the facility, staff members and vendors must have their temperatures checked by a medical professional. These screenings are performed by medical staff conducted outside the facility, and conducted on every shift due to 24-hour coverage by Hudson County medical staff. Individuals who have a temperature above 100 degrees Fahrenheit are not permitted to enter the facility.

d. As of March 7, 2020, HCCC has also:

i. Suspended all tours, volunteer services, weddings, etc.

ii. Educated HCCC staff regarding protocols and best practices to prevent the spread of COVID-19. Informed staff members that they should stay home if they are sick.

iii. Educated inmates and detainees on the importance of hand washing and best practices to prevent the spread of COVID-19 including covering coughs with the elbow instead of with hands, practicing social distancing, and requesting medical care if they feel ill. HCCC provides detainees daily access to sick call and has an on-site medical infirmary;

iv. Posted CDC and Department of Health posters throughout HCCF, including all housing units, employee entrances, workstations and the visitor lobby area. These posters provide educational information encouraging proper washing of hands and other infection avoidance best practices such as social distancing;

e. HCCC has implemented an increase in the general cleaning of the facility with additional staff working through the late-night hours to ensure that the facility is cleaned and disinfected. All housing units are sanitized repeatedly during the day. Fresh air is constantly circulated by opening

utilizing handler/vents throughout the day. All feeding is done inside the housing or cells and inmates do not congregate for meals. HCCC provides disinfectant spray and soap in every housing unit at the jail. The administration is encouraging both staff and the jail general population to use these tools often and liberally.

f. HCCC has also worked with its food vendor to ensure the following:

i. Have the food vendor "store" 14 days inventory;

ii. Have available three meals per day for 14 days of pre-packaged food that can feed the entire jail population and staff;

iii. Prepackage food that can be prepared and ready for delivery by two kitchen workers in case of any outbreak that requires quarantine that would affected Kitchen Staff;

iv. Clean and sanitize the kitchen three times a day after every meal;

v. Have no open food display; closed the salad bar.

g. With respect to medical care, since March 7, 2020, HCCC has:

i. Increased monitoring of all inmates and detainees for symptoms or signs of illness;

ii. Established and cleared a designated housing unit as a quarantine area for inmates and detainees who are suspected of or test positive for COVID-19 infection;

iii. Initiated health screening for all Corrections Officers, civilians, and outside vendor staff every time they enter the building. Prior to entering the facility, staff members, attorneys and vendors must receive medical screening by the medical staff, which includes having their temperatures checked. These medical screenings are conducted outside of the facility. Anyone who exhibits any signs is not allowed to enter the facility;

iv. Established a new protocol to be followed by the HCCC Medical Department for the handling of inmates or detainees who may suffer from health conditions identified by the CDC as putting them at a high risk of developing serious illness or death from COVID-19. This protocol includes daily monitoring of these inmates and detainees and the establishment of a plan to remove the inmates from the rest of the population if determined to be necessary by the HCCC Medical Department. The Medical Department has further transitioned to

telemedicine for all outside consultations and has postponed all elective medical procedures;

v. Maintained a 30-day supply of medication.

h. As of March 8, 2020, HCCC has suspended all social visitation and facility tours. Video visitation is available for family and friends.

i. For attorney visits, web-based video visitation is available free of charge. Non-contact visitation where attorney and detainee/inmates meet are separated by a glass partition is also available. Visiting areas are cleaned and sanitized after each visit.

j. HCCC also facilitates confidential telephone calls between detainees and inmates and their attorneys. Attorneys may contact the Inmate/Detainee Advocate to arrange for a telephone call with their client. The inmate or detainee can use headphones while speaking with their attorney.

k. Since March 21, 2020, the recreation period is staggered. Two inmates/detainees are permitted to leave their cell area at a given time for 30 minutes a day for recreational use instead of 62 inmates/detainees. This available space provides ample room for the inmates/detainees to maintain proper social distancing in accordance with the CDC guidelines on social distancing in correctional facilities during recreation. Inmates/detainees do not mingle during recreation time. The recreation areas are constantly being cleaned throughout the day.

13. Following the implementation of the measures described above, HCCC has continued to establish additional precautionary measures as the situation regarding COVID-19 continued to develop. Such measures include:

a. On or about March 19, 2020, HCCC (a) implemented a regular call amongst all County Wardens to discuss best practices; and (b) canceled all assembled "roll calls" for officers at the start of their shifts to reduce large staff gatherings. All directives are disseminated through an online system or through direct orders from supervisors.

b. On or about March 23, 2020, HCCC coordinated with the U.S. Marshals to implement video conferencing within HCCC, within proximity to inmates and detainees, so that they can continue to have

their cases heard. This service is available to detainees. This will further minimize movement and contribute to social distancing:

c. All staff has Personal Protective Equipment ("PPE"), including N-95 masks, gloves, and eyes protection. Nurses also have coveralls or gowns.

d. Medical personnel are visiting each cell twice a day to check on the medical and mental health status of every inmate/detainee. Inmates and ICE detainees who report or show symptoms consistent with COVID-19 infection are immediately evaluated by medical staff. Inmates or detainees who have non-emergent medical complaints that are unrelated to COVID-19 are seen by a healthcare provider within 24 hours.

e. Meals are being provided to inmates and detainees in their cells.

f. HCCC staff encourage inmates and detainees to avoid congregating.

14. HCCC follows guidance issued by the Centers for Disease Control, the World Health Organization and local guidelines on testing and treatment for COVID-19 to safeguard those in its custody and care. Detainees and inmates who feel any symptoms of illness can make daily sick calls as needed. They can either submit a medical complaint using a kiosk or to a nurse that comes in the unit twice a day. If an inmate or detainee exhibits signs or symptoms of COVID-19, including respiratory illness, they will be provided a surgical mask.

15. HCCC has a liberal testing policy. HCCC uses the multipurpose Universal Transport Medium ("UTM-RT") to test any detainees or inmates who require testing for COVID-19. Test results are returned in 72 hours on average. If an inmate or detainee tests positive for COVID-19, but does not require hospitalization, the inmate or detainee will be isolated in a cell in a designated

isolation area, which has been designated to house individuals who have tested positive for COVID-19.

16. Inmates and detainees who are symptomatic pending test results are evaluated by medical staff, and, depending on the severity of their symptoms, may start on anti-viral medications. Vitals including temperatures are monitored on a daily basis and inmates and detainees are evaluated for hospital placement. Symptomatic inmates and detainees awaiting test results are also placed in quarantine in medical, and stay there for 14 days. Each cell in the quarantine unit is spaced so that inmates and detainees are at least six feet apart. Because this housing unit is operating well under capacity, there is ample space for the detainees to practice social distancing.

17. Inmates who have had a known exposure to a person with confirmed COVID-19, but are asymptomatic, are housed together with restricted movement for the duration of the most recent incubation period. This process is known as cohorting. Those that show onset of fever and/or respiratory illness are referred to a medical provider for evaluation. If no new COVID-19 case develops in 14-day incubation period, the cohorting of those inmates is discontinued. This unit is operating well under capacity, and therefore allows ample room for social distancing for any inmates who must be cohorted in this unit.

18. Our medical provider has assured HCCC that we have on hand the appropriate PPE and other equipment to meet our needs to combat COVID-19 and protect inmates, detainees, health care workers, and other staff members.

19. Inmates and detainees are provided two bars of soap each. Additional soap is provided upon request. Inmates and detainees also have unlimited access to water. Additionally inmates and detainees are provided disinfectant wipes. The facility has a three-month supply of soap and disinfectant wipes on hand.

HCCC COVID-19 CASES

20. As of 10:00 a.m. on June 29, 2020, HCCC identified the following cases of COVID-19, confirmed by testing, among HCCC inmates, detainees, and staff:

a. 17 ICE detainees have tested positive for COVID-19. There were no new positive test results during the past six weeks.[2]

b. 27 county and federal inmates have tested positive for COVID-19. There were no new positive test results during the past six weeks.

c. 103 HCCC staff members have tested positive for COVID-19 since the outbreak began. There were no new positive test results during the last week. All staff who were in proximity of those testing positive were sent home to self-quarantine for the recommended 14-day time period.

21. Two members of the HCCC correctional staff, the former facilities commissary director, and two nurses who worked at HCCC have died from complications from COVID-19.

[2] The last day that a detainee tested positive was May 13, 2020. He made a full recovery.

22. Since on or about April 27, 2020, HCCC has mandated that all law enforcement officers be tested for COVID-19. To date, 276 law enforcement officers have tested negative. Of the 103 law enforcement officers who tested positive, all but 1 of them have recovered and returned to duty.

23. The total number of inmates and detainees is currently 702. The number of COVID-19 tests administered to inmates and detainees is 696.[3] The number of inmates and detainees who tested negative is 580. The number of inmates and detainees with pending test results is 72. Of the 44 inmates and detainees who tested positive for COVID-19 to date, all of them made a full recovery. None of the inmates or detainees who tested positive had to be hospitalized.

24. As of today, there is no mandate for testing the entire HCCC inmate and detainee population by any federal, state or county health agency. To date, testing has focused on people with symptoms consistent with a COVID-19 infection and first responders. Nevertheless, during the week of June 8, 2020, I decided to exercise my discretion as the Director to test the entire facility for COVID-19. I have been informed that we can complete testing of the current population by the end of June 2020. As we establish fully tested and clean housing tiers, my goal is to allow those inmates and detainees significantly more time out of their cells each day.

25. For inmates and detainees with health conditions identified in the CDC guidelines as putting them at increased risk for serious illness from COVID-19,

[3] Some inmates and detainees were tested more than once because of indeterminate test results.

including chronic kidney disease, COPD (chronic obstructive pulmonary disease), immunocompromised state (weakened immune system) from solid organ transplant, obesity (body mass index [BMI] of 30 or higher), serious heart conditions, such as heart failure, coronary artery disease, or cardiomyopathies, sickle cell disease, or type 2 diabetes mellitus, those inmates and detainees are housed in a cell by themselves when applicable. In some instances, however, it may be necessary to house two detainees in a cell based on mental health considerations as discussed above in Paragraph 10. The correctional officers who work with those inmates and detainees are using full PPE including suits, N95 masks and gloves. Additionally, the entire inmate and detainee population has been provided surgical masks.

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, information, and belief.

DATED: July 1, 2020

DIRECTOR RON EDWARDS
Hudson County Department of Corrections and Rehabilitation

EXHIBIT 13

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants*.	Case No. 5:19-CV-01546 JGB (SHKx)

DECLARATION OF JUAN L. ACOSTA

In accordance with 28 U.S.C. § 1746, I, Juan L. Acosta, make the following unsworn declaration, under penalty of perjury, pertinent to the above-styled and numbered cause:

1. I provide this declaration based on my personal knowledge, belief, reasonable inquiry, and information obtained from various records, systems, databases, other Department of Homeland Security (DHS) employees, employees of DHS contract facilities and information portals maintained and relied upon by DHS in the regular course of business.

2. I am employed by DHS, Immigration and Customs Enforcement (ICE), and currently serve as the Deputy Field Office Director (DFOD) for the El Paso Field Office in El Paso, Texas. I have been employed by DHS and its predecessor Immigration and Naturalization Service since 1999. I have served as a supervisor within the organization since 2004.

3. In my current position, I am responsible for the detention and removal operations at detention facilities throughout the Enforcement and Removal Operations (ERO) El Paso Field Office Area of Responsibility to include medical and mental health care.

    a. Detention facilities I oversee include:
        i. El Paso Processing Center, El Paso, Texas
        ii. Otero County Processing Center, Chaparral, New Mexico
        iii. Torrance County Detention Facility, Estancia, New Mexico

iv. West Texas Detention Facility, Sierra Blanca, Texas—This facility is currently being used to house detainees transported from Midland and Odessa, Texas to the El Paso Service Processing Center. The aliens only spend several hours at the facility.
v. Cibola County Correctional Center, Milan, New Mexico

4. The health, welfare and safety of ICE detainees is one of the agency's highest priorities.

5. I work closely with ICE Health Service Corps (IHSC) staff to monitor the medical and mental health care of detainees.

6. In responding to COVID-19, staff at each of the El Paso Field Office detention facilities apply guidance issued by the Centers for Disease Control (CDC) to safeguard those in its custody and care. The staff at all detention centers also implements ERO's COVID-19 Pandemic Response Requirements and the CDC's Interim Guidance on Management of Coronavirus Disease 2019 in Correctional and Detention Facilities.

7. El Paso leadership in conjunction with IHSC and contract medical providers are consistently monitoring the detained population to identify any person who meets the CDC's criteria for those potentially being at higher-risk for serious illness from COVID-19 including the risk factors described in *Fraihat v. ICE*, ---F. Supp. 3d ---, 2020 WL 1932570 (Apr. 20, 2020).

8. ICE works closely with the Office of the Principal Legal Advisor (OPLA) when making its custody determinations. Public safety concerns will also determine ICEs decision on discretionary releases.

9. The El Paso Processing Center (EPC) has been identified as the central intake/reception location for all detainees entering immigration custody within the El Paso Field Office Area of Operations. During detention intake, a qualified health care provider assesses each detainee for fever and respiratory illness. Each detainee is asked, in a language they understand, to confirm if they have had close contact with a person with laboratory-confirmed COVID-19 in the past 14 days. Each detainee is asked whether they have traveled from or through area(s) with sustained community transmission during the prior two weeks. All new detainee admissions are tested for COVID-19 at the EPC via swab. Prior to collecting the specimen, detainees are educated on COVID-19 and the procedure to be conducted and what to expect with the pending results. Detainees are then placed in appropriate staggered housing apart from the general population for 14 days.

10. As of June 23, 2020, all ICE detention facilities under my supervision are below 70% of their rated capacity – allowing for social distancing. Since each facility is not overcrowded, housing unit assignments can allow for social distancing. Facility personnel can assign detainees to beds that are separated by a distance of six feet. In cases where detainees are assigned the same bunk bed, detainees sleep feet-to-head to increase distance. There is daily monitoring of the population percentage at each housing unit. The goal is to keep the appropriate of persons within a housing unit to allow for social distancing, as much as practicable. Detainees are free to be about the housing units during daylight hours. Security staff monitors detainee movement to ensure detainees don't crowd around board games, telephones or stand too close while waiting in line. CDC and ICE posters are displayed throughout the housing units and common areas that explain social distancing, hygiene practices and general information on COVID-19.

11. At each detention facility, upon admission, all detainees are provided a no cost hygiene kit which includes soap and shampoo (can be an all-in-one product) a toothbrush and toothpaste. Hygiene kits are automatically refreshed at no cost or when a detainee requests one. Hand sanitizers are available for the detained population and available for use. Cleaning crews, both contract staff and volunteer detainee workers, are using the proper disinfection chemicals when performing housing unit and common area cleaning.

12. For common use items such as phones and tablets, disinfection materials are used to clean the items before and after each use. Detainees also have access to disinfectants to clean phones and tablet (before and after use).

13. At each detention facility, CDC guidance posters containing information on COVID-19 have been posted in dormitories and community areas. Posters include information about the symptoms, spread and prevention of the disease. CDC guidance on handwashing and proper hygiene are also posted in the dormitories and in the community areas. Posters are posted in English and Spanish.

14. ERO El Paso detention facilities are practicing social distancing within the facilities. Security staff reinforce social distancing when detainees wish to congregate for meals, religious services, medical appointments, law library and any other function where congregation of persons is likely. Recreation schedules where multiple housing units participated at the same time have been limited. Law library access remains available for detainees albeit with social distancing considerations. Barber services are suspended. Sick call and medication distribution are limited to few detainees at a time over a longer period of time. Schedules for activities where groups are expected to

congregate, including meal schedules, have been changed to allow for more space between persons. Other activities have been re-scheduled and adjusted to allow for maximum social distancing.

15. Cohorted housing units are limited from movement to prevent contact with non-cohorted populations.

16. 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. Individuals with this 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. All cohorting efforts are implemented with the goal of minimizing the risk of disease spread and adverse health outcomes.

17. All facilities provide newly admitted detainees with facecovers. Washable facecovers can be cleaned along with the daily laundry service. Damaged facecovers are replaced at no-cost upon request.

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, information and belief.

Executed this First day of July 2020.

Juan L. Acosta
Deputy Field Office Director
Immigration and Customs Enforcement
Enforcement and Removal Operations
El Paso Field Office

EXHIBIT 14

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants*.	Case No. 5:19-CV-01546 JGB (SHKx)

DECLARATION OF ANDREW HURON

I, Andrew Huron, 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), Enforcement and Removal Operations (ERO), and currently serve as the Officer in Charge (OIC) at the South Texas Immigration Processing Center (STIPC) in Pearsall, Texas.

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. The STIPC receives physical custody redetermination requests from respondents and/or counsel. The process of mailing hard copy requests to the Field Office is a procedure that has been in place for many years. It ensures the requests are properly archived and tasked accordingly.

4. An alien can request his/her medical records by signing an 'Authorization for Release of Confidential Health Information' form. This can be completed at any time. The records are provided to the alien and can be provided to their legal representative upon request. ICE Health Service Corps (HSC), however, does not provide medical information to law firms directly, unless the alien asks for their records to be mailed to an address on the 'Authorization for Release of Confidential Health Information' form they sign.

5. ICE policy dictates that all arriving aliens who have been determined by an Asylum Officer to have a credible fear of persecution or torture be considered for release on parole. Under these conditions, each parole determination is made based on each alien's individual circumstances and available evidence. Barring any other negative factors, ICE may grant parole to aliens determined to have a credible fear if they establish their identity and they pose neither a flight risk nor a danger to the community. The decision to grant or deny parole is at the sole discretion of ICE.

6. As part of its determination whether to parole aliens, ICE conducts scheduled interviews and reviews their immigration files and any supplemental documentation provided. If ICE receives a written request for redetermination of a prior decision not to grant parole, ICE may elect to re-interview the alien or make a new decision based on documentary information, including any new information provided.

7. ICE makes custody determinations every day on a case-by-case basis, in accordance with U.S. law and Department of Homeland Security policy, as well as for new detainees pursuant to the order in *Fraihat v. ICE*, --- F. Supp. 3d ---, 2020 WL 1932570 (Apr. 20, 2020). ICE considers the merits and factors of each case while adhering to current agency priorities, guidelines and legal mandates. When making such decisions, ICE officers weigh a variety of factors, including the person's criminal record, immigration history, ties to the community, risk of flight, and whether he or she poses a potential threat to public safety.

8. STIPC provides sanitation frequency and sanitation supplies as follows:

    - STIPC provides hand sanitizer, disinfectant spray, soap, and masks in every housing unit. It is encouraged for staff, cleaning crews, and detainees to use these tools frequently and liberally.

    - STIPC has implemented CDC-recommended cleaning and disinfection above and beyond normal activity. Daily continuous disinfecting and cleaning of used surfaces is frequently done with a disinfectant cleaning solution. Shared equipment is cleaned several times per day (e.g., radios, service weapons, keys, handcuffs). Transport vehicles are thoroughly cleaned before, during, and after each transport. Individuals handling laundry wear disposable gloves and discard after each use.

    - STIPC cleans and disinfects each housing unit between shifts and entire cell blocks on a rotational schedule.

    - There is a 2-gallon portable pump sprayer in the staff restroom in each housing area. During every count time, housing officers must retrieve this sprayer and spray every area in the assigned dorm/housing. This includes, walls, phones, microwaves, sinks, toilets, showers, desk, tables, phones, etc. This chemical is to sit at least 10 minutes. The detainee(s) can then wipe the surfaces with paper towels.

- It is the officer's responsibility to ensure this is done **every count time** as noted below without exception.

  - 12:30 a.m. – Facility Count
  - 04:00 a.m. – Facility Count
  - 09:00 a.m. – Facility Count
  - 12:00 p.m. – Facility Count
  - 7:00 p.m. – Facility Count
  - 9:00 p.m. – Face to Photo Count

9. IHSC has reported there have been no recent complaints since the use of spray chemicals.

10. Since April 2020, IHSC has provided several townhalls to all detainees at STIPC on the risks and mitigation strategies provided by the CDC. In addition, IHSC has educated detainees on the proper use of personal protective equipment (i.e. surgical masks), social distancing guidelines, and use of soap and water to mitigate risk of contamination.

11. STIPC maintains each dorm at 50% or less of a pod's capacity for the purpose of maximizing social distancing to the greatest extent possible. Shower and restroom stalls are configured for one person use at a time. This enables limited contact between detainees to maximize social distancing.

12. IHSC has conducted town halls each time a housing unit underwent quarantine restrictions for potential exposure. This has occurred almost on a weekly basis since March 2020. Detainees are educated on access to care should an individual experience a respiratory illness or symptoms.

13. IHSC held a townhall in April 2020 for facility mask issuance, and proper wear of surgical face masks for detainees was demonstrated. These masks, and guidance, are also provided to all intakes on arrival.

14. GEO provides three masks per week for the detainees and replaces soiled masks upon request.

15. On or about 4/10/2020, surgical masks were issued to all GEO employees, and they were encouraged to wear these masks while on duty.

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) 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. As identified in the PRR, a cohort is a group of persons with a similar condition grouped or housed together for observation over a period of time. Given the significant variance in facility attributes and characteristics, cohorting options and capabilities will differ across the various detention facilities

housing ICE detainees. At STIPC, cohorting is achieved by placing vulnerable detainees (*i.e.*, possible cases and confirmed cases) under isolation in an assigned area where they are treated accordingly.

17. ICE has met with detainees for several hours in conjunction with IHSC to provide comprehensive information on the actions being taken to safeguard detainees and minimize exposure to COVID-19. In addition, ICE and IHSC has provided detailed information during town halls and attempted to deescalate detainee agitation and frustration to the greatest extent possible.

18. Any alien currently in custody with medical concerns/issues has been reviewed for custody redetermination and deemed to be either mandatory detention, threat to the public, flight risk or a public interest.

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, information and belief.

DATED: July 1, 2020

ANDREW HURON JR

Digitally signed by ANDREW HURON JR
Date: 2020.07.01 11:04:39 -05'00'

Andrew Huron
Officer in Charge, STIPC
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

EXHIBIT 15

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants*.	Case No. 5:19-CV-01546 JGB (SHKx)

DECLARATION OF Acting Assistant Officer in Charge Anthony J. Louis

I, Acting Assistant Officer in Charge (AAOIC) Anthony J. Louis, make the following statements under oath and subject to the penalty of perjury:

1. I am currently the AAOIC, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement (ICE). I have held this position since February 23, 2020.

2. In my current position, I am responsible for overseeing detention and removal operations at the IAH Secure Adult Detention Facility located in Livingston, Texas, within the Houston, Texas Field Office Area of Responsibility, which includes medical and mental health care.

3. I work closely with Management and Training Corporation (MTC) to monitor the mental, dental, and health care and detention of detainees.

4. The health, welfare, and safety of ICE detainees is one of the agency's highest priorities.

5. Upon arrival at the IAH, each detainee is screened for signs and symptoms of COVID-19 by a qualified MTC health care provider. Qualified health care providers also screen for disabilities requiring an accommodation. Identified disabilities are further evaluated and reasonable accommodations are provided as medically appropriate.

6. In accordance with the guidelines provided by the Centers for Disease Control and Prevention (CDC), any detainee with COVID-19 type symptoms are evaluated and tested.

7. ICE reviews individuals detained who may have one or more risk factors or disabilities placing them at heightened risk of severe illness and death upon contracting COVID-19. In coordination with ICE Health Service Corp (IHSC) and MTC, ICE assesses the health of all detainees to determine whether continued detention is appropriate.

8. All detainees are required to fill out a sick call request anytime they feel sick or need medical attention. All sick call requests are answered timely, and any detainee needing treatment receives it immediately. Detainees are instructed on how to fill out sick call requests upon arrival to the IAH. Detainees displaying COVID-19 symptoms are seen immediately.

9. Detainees who present symptoms compatible with COVID-19 are referred to a medical provider and separated from others. The medical provider will recommend further testing to confirm the disease. If the detainee is tested for COVID-19 and is found to be positive, the person will remain isolated and treated. In the event of declining health or clinical deterioration, medical staff will refer the detainee for local hospitalization.

10. There have not been any new detainee arrivals to the IAH since May 28, 2020. During the intake process, a qualified health care provider assesses each detainee for fever and respiratory illness. Each detainee is asked, in a language they understand, to confirm if they have had close contact with a person with laboratory-confirmed COVID-19 in the past 14 days. Each detainee is asked whether they have traveled from or through area(s) with sustained community transmission during the prior two weeks. All new detainee admissions are then assigned to a housing location for a 14-day medical observation. This housing assignment keeps newly admitted detainees from congregating with the general population.

11. COVID-19 testing is conducted according to CDC guidelines.

12. The American Correctional Association and ICE standards require that detainees are provided a minimum of 35 square feet of unencumbered space. IAH provides approximately 96 square feet of space in housing units. All housing units are capped at 75 percent of the population to allow for sufficient social distancing. Bunks are separated by at least six feet, complying with social distancing guidelines. Sufficient space is provided to practice social distancing.

13. Recreation is scheduled as one housing unit at a time and, before a new housing unit enters the recreation area, it has to be sanitized and wiped down before the next housing unit enters. The recreation area contains enough space for detainees to maintain six feet of social distancing. Detainees are required to wear proper Personal Protective Equipment (PPE) at all times outside their housing unit.

14. There are no current units in cohort status at this time.

15. Detainees have access to the law library and computers are spaced out at least six feet apart.

16. All detainees are issued two bars of soap and two rolls of toilet tissue weekly and these are reissued upon request. Additionally, hand sanitizer is available to detainees in the hallways and the MTC is expanding hand sanitizer stations throughout the facility.

17. MTC staff provides mop buckets to each housing unit, including units that are in cohort status, and requires sanitizing between each use.

18. MTC staff and ICE staff are required to wear the issued KN-95 or the N-95 respirator masks, gloves, and eye googles when entering the housing units. While in common areas, MTC and ICE staff members are required to wear masks and gloves commensurate with the CDC guidelines. Staff also undergo temperature checks when entering the facility.

19. ICE staff is also required to wear PPE and gloves when around detainees.

20. At the IAH, CDC guidance posters containing information on COVID-19 have been posted in dormitories and community areas. Posters include information about the symptoms, spread, and prevention of the disease. CDC guidance on handwashing and proper hygiene are also posted in the dormitories and in the community areas. These posters are in English and Spanish.

21. Weekly, all detainees are issued a new mask and must sign for it. During facemask issuance, the medical staff provides instructions to detainees on the proper use and wearing of masks, recommendations on prevention of COVID 19, and social distancing. Additionally, IAH provides a multi-language video explaining COVID-19, the prevention of spreading the disease, and the need to practice good hygiene in accordance with the CDC's guidelines.

22. Parole requests are processed under ICE Directive No. 11002.1, Parole of Arriving Aliens Found to have a Credible Fear of Persecution or Torture, and Humanitarian Parole. Requests for parole under ICE Directive No. 11002.1 are considered automatically without a detainee's formal request. The U. S. Citizenship and Immigration Services (USCIS) will notify ICE that a detainee has established a positive fear finding during a credible fear interview. Generally, within three days of notification, the officer will provide the detainee a Parole Advisal and Scheduling of Interview Notification, ICE Form 71-012. On this form, it is explicated that the detainee will need to provide sponsorship information to the officer during the scheduled interview. The notification informs the detainee that a future interview will be held within seven days and ICE must be provided with sponsorship information at that the time of interview. If the detainee provides satisfactory sponsorship documentation and satisfies all requirements of ICE Directive 11002.1, ICE will issue an arriving and departure record, Form I-94, and release the detainee on parole for a period not to exceed 12 months. The detainee can make a written request for redetermination of an earlier denial. It is the Field Office's discretion to re-interview the detainee based solely on documentary material already provided or otherwise of record.

23. ICE also receives humanitarian parole requests pursuant to 8 C.F.R § 212. 5(b). Upon receipt of these parole requests, ICE detainee's case looking for serious medical conditions, women who have been medically certified as pregnant, witnesses in proceedings, and those whose detention is not in the public interest. ICE will provide a response to the detainee's attorney or directly to the detainee, approving or denying the parole request. There is no available appeal of the decision.

DATED: July 1, 2020

ANTHONY J LOUIS Digitally signed by ANTHONY J LOUIS Date: 2020.07.01 18:48:12 -05'00'

Anthony J. Louis
Acting Assistant Officer in Charge
IAH Secure Adult Detention Facility
Livingston, Texas
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

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, information and belief.

DATED: July 1, 2020

ANTHONY J LOUIS Digitally signed by ANTHONY J LOUIS Date: 2020.07.01 18:49:51 -05'00'

EXHIBIT 16

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants*.	)	Case No. 5:19-CV-01546 JGB (SHKx)

DECLARATION OF ADA RIVERA, MD

I, Dr. Ada Rivera, make the following statements under oath and subject to the penalty of perjury:

1. I am currently the Deputy Assistant Director for Clinical Services/Medical Director of the ICE Health Service Corps (IHSC) of Enforcement and Removal Operations (ERO), U.S. Immigration and Customs Enforcement (ICE). I have held this position since July 2017.

2. In my current position, I oversee and monitor all clinical services at IHSC-staffed facilities that house ICEdetainees.

3. IHSC provides direct medical, dental, and mental health patient care to approximately 13,500 detainees housed at 20 IHSC-staffed facilities throughout the nation.

4. IHSC comprises a multidisciplinary workforce that consists of U.S. Public Health Service Commissioned Corps (USPHS) officers, federal civil servants, and contract health professionals.

5. As a part of my official duties, I am familiar with the plaintiffs' motion to enforce the preliminary injunction in the above-captioned case.

6. I have reviewed the declarations of Dr. Homers Venters (ECF 172-10) and Craig Haney (ECF 172-8).

7. Based upon my personal knowledge and on information furnished to me in the course of my official duties, I declare as follows:

TRANSFERS

8. Effective May 5, 2020, the ERO *COVID-19 Checklist for All ICE ERO Transfers, Removals, and Releases* form must be completed for any detainee who will transfer, be removed, or be released to the community. This checklist helps to ensure the detainee does not pose a threat of illness to others and/or notifies local health authorities for those detainees who require ongoing monitoring.

9. Detainees are not allowed to be transferred or deported unless they have been cleared of COVID-19 by either a test or time-based protocol as per Centers for Disease Control and Prevention (CDC) guidelines. ICE tests certain detainees in preparation for deportation if required by the host country as an additional step.

10. In addition to the *COVID-19 Checklist for All ICE ERO Transfers, Removals and Releases*, IHSC provided the *Temperature Check Guidance for Transfers and Removals* to ERO Field Operations and all IHSC-staffed facilities, to ensure that no detainee was moved with any COVID-19 signs or symptoms. Detainees with a temperature over 99 degrees and/or symptoms consistent with COVID are held back, medically isolated and referred to a medical provider for assessments including testing. This information was shared with all Field Office Directors for dissemination.

11. Since June 4, 2020, all IHSC-staffed facilities are testing all new arrivals and cohorting for 14 days. Detainees with positive results are medically isolated while the rest remain in cohort until completing the 14 days. No detainee is cleared for transfer or removal while in cohort. Required releases are coordinated in collaboration with the local health department.

12. Before June 2020, ICE followed (CDC) guidance, which stated at the time that testing should be prioritized for persons with symptoms typically associated with COVID-19, including residents in congregate living settings such as prisons and shelters.

13. Beginning June 4, 2020, all IHSC-staffed facilities began testing detainees during the intake screening process for COVID-19 using the LabCorp SARS-CoV-2 nucleic amplification assay test (NAA). The guidance issued is titled *COVID-19 Screening and Cohorting Practices for New Arrival Detainees*. Detainees are medically isolated using CDC criteria based on symptoms and test results, and the detainees are released from isolation to general population after clearing through either a testing or time-based method.

14. ICE adheres to CDC guidance as it adapts to the recommendations for universal testing. ICE has initiated several pilot efforts, in conjunction with its partners, to test larger groups of detainees at select facilities in order to evaluate the operational factors of expanded testing.

15. Saturation (whole facility) testing plans, utilizing the LabCorp SARS-CoV-2 nucleic amplification assay test (NAA) or similar test, have been developed for most IHSC-staffed and designated ICE contract facilities. Medical isolation and cohorting is implemented in accordance with CDC guidance. This baseline testing in addition to intake and symptom-based testing, ensures that ICE is able to mitigate possibilities of exposure to COVID-19.

16. Saturation testing plans include detainee education on the intent of whole facility testing completed in their preferred language. This has ensured a high success rate in obtaining consents for testing.

17. Sample collections are performed or monitored by medically qualified staff. Opportunities for self-collection are afforded to the detainee under the supervision of health care staff.

18. Facility staff are being afforded opportunities for testing either through employer or coordination with community resources.

MEDICAL ISOLATION, LOCKDOWNS, and QUARANTINE PRACTICES

19. Detainees who are positive for COVD-19 and symptomatic are medically isolated, preferably in single cells, in order to prevent the spread of infectious diseases within the general population. Medical isolation of infectious individuals is recommended by the CDC in order to prevent the spread of numerous infectious diseases.

20. During the COVID pandemic, facilities have been forced to utilize all their available housing space as needed in order to accommodate CDC requirements for medical isolation.

21. Detainees can be medically isolated in a Medical Housing Unit (MHU) or single bed cells as space allows.

22. A health assessment is provided to detainees prior to placement in medical isolation or cohorting. Sick call is offered on a daily basis to all in accordance with the IHSC Interim Reference Sheet for Monitoring of Potential and Known Detainees with COVID-19. In addition, monitoring is completed once or twice a day to include vital signs and oxygen saturation, for symptomatic COVID positive or exposed cases.

SEVERE PSYCHIATRIC ILLNESS

23. ICE Detention Facilities complete pre-clearance segregation checks prior to placing detainees in isolation, this is done to ensure that any medical and mental health concerns are reviewed by medical providers and registered nurses (RN) to:

a. Identify existing medical, dental or behavioral health condition that contraindicates placement of the detainee in the Special Management Unit (SMU);

b. Ensure that any required special accommodations while in SMU are addressed/reviewed;

c. Ensure that RN or medical provider notifies behavioral health staff of the SMU placement if the detainee is currently under the care of behavioral health services;

d. Ensure that, when reason for concerns exists, a qualified medical or behavioral health provider conducts a complete evaluation, and behavioral health providers (BHP) or medical providers conduct weekly rounds in the SMU to assess the behavioral health status of all detainees in the SMU; and

e. Ensure that BHPs or medical providers assess detainees experiencing active psychiatric symptoms housed in SMU on a daily basis.

24. BHPs conduct sick calls and daily rounds on detainees housed in medical housing unit(s) as part of COVID-19 symptomatic cohorts to provide behavioral health services.

25. Detainees with identified pre-existing mental health conditions are monitored intensely by BHPs per treatment plan and continued care needs related to psychiatric or ancillary services.

26. Detainees with Serious Mental Illness (SMI) are monitored at frequent intervals in accordance with acute/chronic care treatment plan as medically indicated.

27. We continue to accommodate the disability needs of our patient population. Some of the enhanced behavioral health (BH) services during ICE COVID-19 response include:

a. More frequent behavioral health contacts with licensed BHPs

b. Enhanced BH Detainees testing for COVID-19, prior to movement to any new facilities, and/or immediately upon arrival.

c. Cross discipline collaboration to educate BH patients on methods of COVID-19 prevention, such as frequent hand-washing/sanitizing for the recommended time frames; maintaining appropriate social distance; keeping their hands away from their faces, as recommended; remaining isolated in designated areas, as instructed; protocol for how to proceed in the event they are feeling symptomatic, etc.

d. Regularly consult with peer psychiatric providers to ensure BH patients are medication compliant, as a means of increasing their likelihood of following COVID-19 precautionary measures.

e. Locate alternative placement options for detainees when facilities were identified as having COVID-19 positive cases, re-routing detainees to other facilities on short notice, as deemed necessary

f. Provide an integrated care approach by conducting COVID-19 Screenings during every BH encounter, to include routine BH sessions and/or interventions, regarding any practices which may have made them more susceptible to the exposure &/or transmission of COVID-19.

h. Deliver timely BH Services to all detainees who were identified as requiring BH Services and/or those who requested BH Services.

g. Increased BH monitoring and oversight of detainees throughout ICE detention facilities.

h. Support a BH provider-driven initiative to increase supportive counseling to detainees – even those without known BH conditions around concerns and stress pertaining to COVID-19.

i. Identified appropriate diagnostic codes that need to be considered as severe psychiatric illness.

i. Prompt notification to ICE when a patient is considered at high risk of severe illness from COVID-19 by sharing comprehensive lists of detainees that have the diagnostic codes consistent with severe psychiatric illness.

HIGH RISK DETAINEES

28. ICE follows CDC guidance and uses the risk factors enumerated in this court's April 20, 2020 court order when identifying individuals with conditions that place them at higher risk if exposed to COVID-19. Diagnostic codes were identified that cover all medical and mental health conditions regardless of age. Lists are generated on a weekly basis and shared with ICE field offices for review and consideration.

29. Detainees with high risk conditions are targeted for testing and monitored by health care professionals on a regular basis through chronic care clinics. These clinics are provided by physicians and advanced practice providers that are credentialed and privileged to provide clinical services at ICE facilities.

30. Positive COVID detainees with mild to moderate symptoms are placed in an MHU where they are monitored 24/7. Care is provided by medical staff to include physicians, advanced practice providers, nurses and mental health staff. Those with moderate to severe symptoms are referred to local hospitals for a higher level of care.

31. ICE follows CDC guidance when releasing patients from medical isolation. Test based strategy is utilized for immunocompromised individuals. The time-based strategy is utilized for all others prior to placement in general population. These detainees continue monitoring with a physician or advance practice provider through chronic care clinics. Individuals who return from a hospital are monitored in the MHU until they meet either testing or time-based criteria for release to general population.

COVID-19 OVERSIGHT

32. The Interim Reference Sheet for Monitoring of Potential and Known Detainees with COVID-19 is followed when determining placement and frequency of monitoring of detainees with positive or negative COVID-19 test results.

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 belief.

DATED: July 8, 2020

ADA I RIVERA Digitally signed by ADA I RIVERA Date: 2020.07.08 14:58:43 -04'00'

Ada Rivera, MD
ICE Health Services Corps
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

EXHIBIT 17

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION - RIVERSIDE

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants*.	Case No. 19-cv-01546 JGB (SHKx)

DECLARATION OF BRYAN S. PITMAN

I, BRYAN S. PITMAN, make the following statements under oath and subject to the penalty of perjury:

1. I am a Supervisory Detention and Deportation Officer (SDDO), New Orleans 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 to ERO operations at the Etowah County Detention Center (ECDC), Gadsden, Alabama. I have been employed with ICE since March 2003. I have served as an SDDO since March 2013.

2. ICE contracts with the Etowah County, Alabama, Sheriff's Office (ECSO) for the management and operation of the ECDC, pursuant to a rider agreement on a U.S. Marshal Service contract.

3. 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, information portals maintained and relied upon by DHS in the regular course of business, and ECSO employees.

4. In my current position, I work with ICE Health Service Corps (IHSC) Field Medical

Coordinators (FMCs) who report to the Medical Case Management Unit. The FMCs serve as medical consultants to the ICE field offices and oversee clinical services at Inter-Governmental Service Agreement (IGSA) facilities that house ICE detainees, including the ECDC. I also work with the medical personnel who provide the clinical services at the ECDC.

5. IHSC provides direct medical, dental, and mental health patient care to approximately 13,500 detainees housed at 20 IHSC-staffed facilities throughout the nation.

6. 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 IGSAs 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.

7. IHSC comprises a multidisciplinary workforce that consists of U.S. Public Health Service Commissioned Corps (USPHS) officers, federal civil servants, and contract health professionals.

8. ICE has maintained a pandemic workforce protection plan since February 2014, which was last updated in May 2017. This plan provides specific guidance for biological threats such as COVID-19. ICE instituted applicable parts of the plan in January 2020 upon the discovery of the potential threat of COVID-19. In January 2020, the DHS Workforce Safety and Health Division provided DHS components additional guidance to address assumed risks and interim workplace controls. This included the use of N95 masks, available respirators, and additional PPE. In addition, in March 2020, IHSC issued the *IHCS Interim Recommendations for Risk Assessment of Persons with Potential 2019-Novel Coronavirus (COVID-19) Exposure in Travel-, Community-, Custody Settings*.

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.[1]

10. In testing for COVID-19, IHSC and the ECDC are also following guidance issued by the Centers for Disease Control and Prevention (CDC) to safeguard those in ICE custody and care.

11. On June 22, 2020, ICE ERO released its updated *ERO COVID-19 Pandemic Response Requirements* (PRR), a guidance document that builds upon previously issued guidance

[1]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.

and sets forth specific mandatory requirements 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.[2]

12. Each detainee is screened for illnesses and disabilities upon admission by a medical professional. Identified disabilities are further evaluated and reasonable accommodations are provided as medically appropriate.

13. The ECDC primarily houses long-term detainees. Once a pandemic was recognized, the entire long-term population was quarantined for 14 days in individual cells, housing one to four detainees per cell, until the population was confirmed to be asymptomatic and then combined into a single unit. This allowed ECDC to free up a separate unit apart from the general population for new ICE admissions to be quarantined and screened for COVID-19. After this quarantine period the long-term population continues to be housed in this "sterile" unit with no new detainees being introduced until they have passed their own quarantine period. Any contact with staff, medical, or other essential individuals is minimized to the highest degree.

14. At the ECDC, during intake medical screenings, detainees are assessed for COVID-19 symptoms as laid out in CDC guidelines, such as fever and respiratory illness. The detainees 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. Out of an abundance of caution, ECDC has taken the position that all incoming detainees may have been in areas with sustained community transmission.

15. ICE and ECDC have instituted screening guidance for new arrivals, including transfers, to identify individuals who meet CDC's criteria for epidemiological risk of exposure to COVID-19. Entry into the facility is denied to any incoming detainee who exhibits a fever and/or respiratory symptoms unless that detainee has tested negative for COVID-19. Any transferred detainees are assessed for COVID-19 symptoms by medical personnel and are quarantined for 14 days until cleared to enter the general population. Detainee transfers are conducted on a need only basis with safeguards and restrictions in place. ECDC has established procedures to continue closely monitoring the population's health and symptoms, including additional temperature checks of detainees where medical circumstances trigger additional checks.

16. At the ECDC, during intake the detainees and county jail inmates are admitted through the same area, however, they are not placed in group holding cells or seated together. The detainees are provided with masks and abide by social distancing guidelines while in the intake area.

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2 https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf

17. 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) and are monitored daily for COVID-19 symptoms such as a fever and 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. As identified in the PRR, a cohort is a group of persons with a similar condition grouped or housed together for observation over a period of time. Given the significant variance in facility attributes and characteristics, cohorting options and capabilities will differ across the various detention facilities housing ICE detainees.

In ECDC, cohorting is achieved in the following manners:

- Detainees exhibiting any COVID-19 symptoms once inside the facility are examined by a medical professional and are sent to be housed in Unit 2 in their own single occupancy cell. Unit 2 is separate from other units and the general population.

- Any ECDC personnel entering Unit 2 must wear PPE (masks, gloves, and a gown if necessary). There are no more than two deputies dedicated to the operation of this unit. Unit 2 is a non-direct supervised unit in that the detainees are observed through video monitors and glass partitions. The deputies monitor these detainees from the secured area without having to enter the unit.

- In Unit 2, medical personnel check the detainee's vital signs, such as heart rate, blood pressure, oxygen levels, and temperature, and other symptoms every four hours, starting at 8:00 a.m., and document them in the Unit Log. During this medical screening process, the detainee is not allowed to fully exit their cell and instead must come out only far enough to be reached by the medical personnel. Any changes to the detainee's medical condition noted by ECDC personnel are immediately communicated to medical personnel.

- The detainees housed in Unit 2 are issued a N95 mask. Any time the detainee leaves their cell for medical appointments, to shower, or other reasons the detainee must put on their mask before their cell door can be opened and must wear it while moving through the dayroom. Any surfaces and objects the detainee touches while they are outside their cell must be sanitized afterwards. The detainees are not allowed to stop at any other cells.

- Unit 2 is sanitized twice a day by using a forced air machine that distributes a disinfectant solution into the air and on surfaces in order to disinfect common areas. This process takes place after the detainees have vacated the targeted area.

18. The ECDC has the following medical capabilities:
    - The ECDC, which manages male detainees only, provides daily access to sick calls in a clinical setting, 36 observation beds and access to specialty services, such as mental health and dental services. The facility can admit patients to the local hospital for a higher level of care when needed.

19. As of June 30, 2020, ICE has the following information:
    a. There are no ICE detainee positive cases of COVID-19 in the ECDC. There are no suspected COVID-19 cases among the ICE detainee population at Etowah.

    b. ECDC is unable to provide any case information on the inmate population at the ECSO as they are in county custody. However, inmates and ICE detainees are housed separately.

20. The ECDC has an ICE detainee population within their approved capacities and is not overcrowded. ECDC has the capacity to house 320 ICE detainees. As of today, there are 112 ICE detainees housed at the facility.

21. Detainees at the ECDC are not crowded into a single unit. The detainees are currently housed throughout Unit 9, Unit 1, and Unit 2. Unit 9 currently houses 98 detainees with a capacity to hold 128 detainees total. Unit 9 houses detainees that have been cleared by medical personnel after each individual quarantine period. Unit 2 houses any symptomatic detainees. Unit 1 is the isolation unit for new arrivals and currently houses 10 detainees.

22. The ECDC has increased sanitation frequency and provides sanitation supplies as follows:

    - ECDC provides industrial cleaner, soap, hot water, paper towels, and face masks to staff and cleaning crews and CDC-recommended cleaning and disinfection above and beyond normal activity has been implemented. All common areas in the facility are being disinfected multiple times per day. The common areas included are detainee housing areas, law libraries, medical areas, intake areas, door handles throughout the facility, desk and counter surfaces in high traffic areas, lobby seating areas, restrooms, and any other areas the facility identified as needing such cleaning.

    - Disinfectant in excess quantities is maintained in the general population area to be accessed by the detainees for cleaning, mopping, and wiping down of any areas the detainees would like to clean. Additionally, ECDC utilizes daily a forced air machine that distributes a disinfectant solution into the air and on common area surfaces in order to disinfect all areas throughout the facility. This process takes place after the detainees have vacated the targeted area.

- Any food trays that are delivered to the individual units are disinfected prior to leaving the kitchen. The trays are covered with a lid by kitchen personnel with gloved hands and served contact-free to the detainees.

- Detainees are each provided with seven bars of soap weekly for their personal use. Additional cleaning products such as soap for showers and hand soap for sink handwashing have been added to housing areas and are available at no cost to detainees. Detainees have sinks in each individual cell as well as in the general population area for handwashing at any time. Each cell also has a toilet. Detainees can wash their hands as frequently as they want and are encouraged to do so. Detainees are encouraged to communicate with local staff when additional hygiene supplies or products are needed.

- Alcohol based disinfectant dispensers have been placed in lobby areas for public and staff use. Internal facility areas have been equipped with disinfectant dispensers as well. ECDC also provides soap and paper towels that are present in bathrooms and work areas within the facilities. Everyday cleaning supplies such as soap dispensers, bars of soap, and paper towels are routinely checked and are available for use. Extra cleaning supplies are delivered as needed, as well as inventoried and ordered weekly to maintain a surplus.

- Each detainee has received a face covering or mask as a precautionary measure to prevent any spread of the virus from an asymptomatic person. As a general rule, each detainee is provided with a new face covering or mask weekly, however, a face covering or mask is provided on an as needed basis and can be provided to a detainee as frequently as daily. Detainees have been instructed to wear the face coverings when they are in common areas.

- Detainees have been educated through in-person town halls on best practices to keep from spreading any contagions. For instance, detainees have been advised to keep at least six feet away from others as much as possible. Educational posters with illustrations and instructions in English and Spanish demonstrating good hygiene practices have been placed throughout the facility to include detainee living areas.

- The administration is encouraging both staff and the detainee population to use these tools often and liberally.

23. The ECDC has limited professional visits to noncontact visits and suspended in person social visitation and facility tours. In-person legal visitation remains permitted at ECDC.

Non-contact legal visits (e.g., communication via tele-video) are offered first and strongly encouraged, to limit exposure to ICE detainees. However, if the attorney believes the legal visit requires contact, attorneys are able to meet with their clients at ECDC in the attorney visiting rooms while maintaining the appropriate social distancing of six feet separation. For contact attorney visits, detainees must wear surgical masks, which are provided by ECDC. All attorneys are allowed 24/7 access to contact and non-contact visitation with detainees.

24. At ECDC, detainees have access to dayrooms, a recreation yard, telephones, and the law library within specified guidelines. The detainees are required to wear their masks in these areas and to maintain the appropriate social distancing of six feet separation. If a detainee refuses to wear their mask, they are given a verbal warning by the ECDC staff and upon noncompliance, the detainee is returned to their cell. Social distancing is monitored by a unit officer who instructs detainees not to congregate outside the required guidelines. The law library maintains an entry log and only four to six detainees are allowed inside at any given time. The only interruptions to dayroom access and telephones are during counts during which detainees must be by their beds. Counts take approximately 30-45 minutes. Access to dayrooms and telephones has not been impacted by COVID-19.

25. At ECDC, detainees are able to leave their cells, by level, for six hours a day, with an additional 30 minutes per meal. The detainees are allowed to spend three hours outside their cells in the morning and three hours in the evening. The detainees are provided with three meals a day and given 30 minutes to finish each meal. The detainees are advised through educational posters that they should maintain social distancing while eating their meals. The ECDC has not kept the detainees in a 21-23-hour mass lockdowns in any recent weeks.

26. The ECDC is in compliance with all National Detention Standards (NDS). Detainees are not kept in individual cells above capacity or in overcrowded units. The ECDC tries to accommodate cell mate requests when possible. There are enough showers, phones, and kiosks per unit population to meet the NDS guidelines. If a detainee experiences plumbing issues in their cell the repairs are made immediately. Any repairs that are not able to be completed within a few hours result in the affected detainee being relocated to an open cell.

27. The ECDC screens all staff, as well as county jail staff, and vendors when they enter the facility including checking body temperatures. All visitors, including attorneys, must also wear personal protective equipment (surgical or N95 mask, and latex gloves or equivalent) in order to enter the facility. County jail inmates, including those with job responsibilities, are not allowed to enter the ICE detainee units.

28. The ECDC is screening all detainee intakes when they enter the facilities, including travel histories, taking medical histories, and checking body temperatures and other symptoms of

COVID-19. ECDC has procedures to continue monitoring the populations' health. Detainees, inmates, and staff are all provided with a face mask to wear.

29. The ECDC 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, requesting to seek medical care if they feel ill, and maintaining at least six feet of separation, when possible. The facility provides detainees daily access to sick call.

30. At ECDC all new arrival detainees as well as detainees who are transported to any offsite location (hospitals, medical appointments, interviews) are, upon return, instructed to shower, provided with new uniforms, and housed separate from the general population for 14 days to monitor for the onset of any symptoms related to COVID-19. This separate housing and monitoring process is in addition to the initial intake screenings and temperature checks described in the above paragraphs.

31. ICE reviews its detained population of people who are "at higher risk for severe illness," as identified by the CDC,[3] to determine if detention remains appropriate, and considers 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.

32. In response to Alex Hernandez's allegations, ICE conducted a review of his case and provides its response below.

33. Hernandez has been detained at ECDC since December 20, 2018 and has been housed in his current cell since January 8, 2019. The only times Hernandez roomed with a cellmate was between March 7, 2020 to March 16, 2020 and then again between April 3, 2020 to May 20, 2020. Hernandez has never submitted a request for a solo bed. Hernandez is housed in Unit 9 with a total capacity of 128 and there are approximately 40 detainees housed on his level.

34. All detainees, including Hernandez, are issued seven bars of hand soap weekly which lasts based on the detainees' personal use. Liquid soap is also available upon request at the Officers desk. There is a surplus of cleaning supplies on hand for the detainees to use and inventory is delivered weekly. Sanitation frequency and sanitation supplies are discussed in more detail in paragraph 22.

35. The ECDC staff began wearing face masks on April 9, 2020. Detainees, including Hernandez, are provided with new face masks weekly, or if needed daily based on the

[3] See https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/groups-at-higher-risk.html. The CDC includes in this list all individuals age 65 or older. ICE expanded this to include all detainees age 60 or older.

detainee's individual circumstance. No detainee, including Hernandez, is in possession of the same face mask for more than one week. ECDC staff enforces the wearing of face masks in the common areas. If a detainee refuses to wear their face mask they are first verbally instructed to comply and if the detainee refuses to comply, they are returned to their cell. Protocols and procedures are discussed in more detail in paragraphs 22 and 24.

36. There has been no need to increase medical staffing since the onset of COVID-19. There have been changes in protocols and procedures, however, in response to COVID-19 and those are discussed in more detail in the above paragraphs.

37. Hernandez, along with other detainees, can leave their cell for six hours a day and are given an additional 30 minutes for each meal. During this time, ECDC staff reminds the detainees to maintain the appropriate social distance and enforces the wearing of face masks, as appropriate. Hernandez may choose to stay in his cell for 19.5 hours or longer but there have been no long-term mass lockdowns at ECDC in the last few weeks, as Hernandez purports. Generally, detainees share their cells within the specified capacity unless they are exhibiting symptoms of an illness. Detainees, including Hernandez, have access to various reading materials through the library and are able to view cable news on the television in the common area. There have been no reports of any altercations due to these protocols and procedures. Protocols and procedures are discussed in more detail in paragraphs 24 and 25.

38. Hernandez, along with the other detainees in his unit, had a temperature check conducted in March 2020 by the medical staff; no elevated temperatures were present. Daily temperatures are taken in the quarantine and isolation units. General population will only have their temperatures checked whenever warranted by a sick call. COVID-19 tests are reserved for symptomatic detainees.

39. In response to allegations based on Gavrila Hojda's removal, ICE conducted a review of his case and provides its response below.

40. Declarant Hojda was arrested by ERO New York on or about September 18, 2018 and taken into ICE custody. On or about April 30, 2019, Hojda was ordered removed to Romania by an immigration judge in New York. On or about August 25, 2019, Hojda was transferred to the ECDC. On or about October 11, 2019, the Board of Immigration Appeals dismissed Hojda's appeal. Hojda was identified on or about April 29, 2020 by ERO New Orleans as being a Fraihat subclass member. However, continued detention was determined to be appropriate. On May 27, 2020, Hojda was removed to Romania via ICE Air Operations.

41. ERO New Orleans completed its initial search for members of the certified subclasses in Fraihat v. U.S. Immigration & Customs Enf't, No. EDCV191546JGBSHKX, 2020 WL 1932393, at *1 (C.D. Cal. Apr. 20, 2020), as required by the preliminary injunction entered by that Court, Fraihat v. U.S. Immigration & Customs Enf't, No. EDCV191546JGBSHKX, 2020 WL 1932570 (C.D. Cal. Apr. 20, 2020). For cases that were identified as Fraihat class members and other medically vulnerable detainees, ERO New Orleans reviewed these cases to determine whether continued detention was appropriate. ERO New Orleans continues to review these cases as additional information becomes available or for new detainees to the facility.

42. Reviews for release based on medical vulnerabilities, including Fraihat class members, are conducted based on the relevant information available to ICE, including information from medical, the alien file, and provided by the detainee or his or her representative. ICE is not under a court order or directive to generally release every medically vulnerable detainee or Fraihat class member, but, as discussed above, to determine whether their continued detention is appropriate. If released, the detainee will be notified and provided the relevant paperwork regarding the release, including, if appropriate, an Order of Supervision, release on Own Recognizance, or parole. In most cases, detainees are not provided written notification that they are not being released.

43. However, if a detainee requests parole pursuant to ICE Directive No. 11002.1, "Parole of Arriving Aliens Determined to Have a Credible Fear of Persecution or Torture" (Dec. 8, 2009) (2009 ICE Parole Directive), he or she is provided a brief explanation of the reason for denial as is required by that directive. The New Orleans Field Office normally uses a form letter, Notification Declining to Grant Parole, on which the relevant basis for denial are checked (i.e., flight risk, failure to establish identify, danger to the community, or other factors) with a brief, but generalized, explanation for that basis. Not only is it not required by the Parole Directive, given the large volume of parole decisions, it is not possible to provide an in-depth explanation as to why parole was denied. In addition, detainees who entered without inspection, but are found to have a credible fear of persecution, and request parole, are issued denials of those requests on an Interim Notice Declining to Grant Parole. In any case in which the detainee is provided notice that they will not be released, ERO New Orleans considers all of the relevant and available information, even though, for practical considerations, a full explanation of all of the factors considered may not be provided on the written notice to the alien.

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:

JUL – 1 2020

Bryan S. Pitman
Supervisory Detention and Deportation Officer
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

EXHIBIT 18

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants*.	Case No. 5:19-CV-01546 JGB (SHKx)

DECLARATION OF ACTING ASSISTANT FIELD OFFICE DIRECTOR MELANIE WHITE

I, Melanie White make the following statements under oath and subject to the penalty of perjury:

1. I am employed by the U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE), and currently serve as the Acting Assistant Field Office Director. I have held this position since July 2020.

2. As an Acting Assistant Field Office Director, I work with Custody Management who report to the ICE Detention Services Manager to ensure all guidelines of the Performance Based Detention Standards (PBNDS). The PBNDS are being met by each facility. The PBNDS outlines the care and safety of ICE detainees while in ICE custody. I also work with the Field Medical Coordinators (FMCs) who report to the Medical Case Management Unit. The FMCs serve as medical consultants to the ICE field offices and oversee clinical services at Inter- Governmental Service Agreement (IGSA) facilities that house ICE detainees, including the Orange County facility.

3. I have read the declaration of Andrea Saenz, Electronic Filing Number 174.

4. All inmates/detainees have been issued two reusable face masks, which they are required to wear. They are required to clean one of the masks daily.

5. Orange County Jail has no known positive cases of COVID-19. The procedure in 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) 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. As identified in the PRR, a cohort is a group of persons with a similar condition grouped or housed together for observation. Given the significant variance in facility attributes and characteristics, cohorting options and capabilities will differ across the various detention facilities housing ICE detainees. In the Orange County Jail, detainees are housed in single cells which would be used for quarantine as cohorting would not be necessary.

6. Orange County Jail has implemented an increase in the general cleaning of the facility with additional staff working to ensure that the facility is cleaned and disinfected. A combination of detainees/inmates, facility staff, County Department of Public Works, and private sanitized companies have all taken an active role in maintaining a sanitized facility. Detainees wear gloves while cleaning and staff can use gloves at their discretion. Disposable gloves are available in all housing units and all Officer Posts. The facility and housing units are sanitized no less than three times per shift with chemicals approved by to remove the COVID-19 virus. This includes sanitizing phones headsets. Housing units are cleaned more frequently as necessary. All feeding is done inside the cells, so inmates and detainees do not congregate for meals in accordance with CDC guidance or correction facilities. Orange County Jail provides disinfectant spray, bleach, hand sanitizer, hot water, and soap in every housing unit at the facility. These cleaning materials are readily available to the inmate/detainee population. Soap is provided to each detainee and is readily available to them. Soap is also readily available to the staff. The administration is encouraging both staff and the facility general population to use these tools often and liberally.

7. Detainees and inmates are permitted outside of their cells for up to 10 hours a day. During that time, inmate/detainees have 4,480 square feet of space within the facility available for recreational use, excluding showering. This available space provides ample room for the inmates/detainees to engage in social distancing during recreation in accordance with the CDC guidelines on social distancing in correctional facilities. The inmates and detainees are not commingling during this time. Individual cells are provided for each ICE detainee to ensure ample room for social distancing.

8. Those inmates and ICE detainees that present symptoms compatible with COVID-19 will be placed in medical isolation and treated by Wellpath staff. The Department of Health is consulted prior to all testing. The Department of Health, in conjunction with Wellpath, the medical vendor, determine the proper testing protocols based on the detainee/inmate's symptoms. The Facility has twenty-five (25) testing kits on hand and can receive additional kits within 24 hours upon request. If testing is positive, and they do not require hospitalization, they will remain isolated and receive treatment at the Facility. In case of any clinical deterioration, they will be referred to a local hospital. The Facility implements Isolation/Quarantined in the same manner.

9. The health care of our inmates and detainees is administered by medical professionals employed by Wellpath Correctional Medial Services ("Wellpath"). Additional medical and mental health staff at the Facility consists of the following: 1 medical doctor; 1 psychiatrist; 10 registered nurses; 11 licensed practical nurses; 4 clinical social workers; 2 mental health nurse practitioners; 1 dentist; and 2 dental hygienists. Nursing staff are on call 24/7 for any emergency needs.

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, information and belief.

DATED: July 1, 2020

MELANIE C WHITE Digitally signed by MELANIE C WHITE
Date: 2020.07.01 12:29:07 -04'00'

Melanie White, Acting Assistant Field Office Director

EXHIBIT 19

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants*.	Case No. 5:19-CV-01546 JGB (SHKx)

DECLARATION OF ACTING OFFICER IN CHARGE LIANA J. CASTANO

I, Liana J. Castano, Acting Officer in Charge (OIC), make the following statements under oath and subject to the penalty of perjury:

1. I am employed by U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), and currently serve as the Acting OIC of the Krome Service Processing Center (Krome or Krome SPC). I am also an Assistant Field Office Director (AFOD) at Krome. I have held this position since September 2, 2018.

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 responsible for oversight of detained case management at Krome Service Processing Center, as well as Glades County Detention Center. I work closely with the ICE Health Service Corps (IHSC) and their assigned Field Medical Coordinators (FMCs) to ensure compliance in care being offered.

4. In compliance with *Fraihat v. ICE*, 19-cv-01546 (C.D. Cal. Apr. 20, 2020), ERO reviewed all cases and identified detainees who are subclass members due to risk factors 1 and 2. This information was input as an alert into our Enforcement and Removal Module database (EARM). We then determine whether continued detention remains appropriate in light of the COVID-19 pandemic and record the custody decisions in EARM.

5. Attorneys of record are advised of the custody review decision, but not the details of that decision-making process. Additionally, statutory detention requirements are not waived when making custody review decisions.

6. Within five days of entering ICE custody, new detainees are reviewed to determine whether they meet the *Fraihat* criteria. For those who do, the case must be reviewed to determine whether continued detention is appropriate in light of the COVID-19 pandemic.

7. Pursuant to the CDC Interim Guidance on Management of Coronavirus Disease 2019, Glades quarantined entire housing units due to contact with a confirmed case of COVID-19. During this time, no new individuals were added to the group. The entire group was monitored and assessed by medical staff twice a day for COVID-19 symptoms. All symptomatic detainees were tested for COVID-19.

8. After the fourteen-day medical observation period, medical staff assessed each detainee using the following criteria:
a. At least 3 days (72 hours) have passed since recovery defined as resolution of fever without the use of fever-reducing medications and improvement in respiratory symptoms (e.g., cough, shortness of breath); AND,
b. At least 7 days have passed since symptoms first appeared, AND
c. A minimum of 14 days has passed since the first specimen collection resulting in a positive confirmatory test for an FDA EUA COVID-19 molecular assay for detection of SARS-CoV-2.

9. As of June 14, 2020, there are no detainees under cohort status at Glades.

10. Glades medical staff continue to monitor the detainee population and conducts twice daily temperature checks of detainees and staff as a precaution. Glades tests symptomatic detainees for COVID-19 and positive cases are medically isolated, and referred to a local hospital, if necessary.

11. At Krome all detainees previously cohorted as a result of being a close contact of a laboratory confirmed case of COVID 19, were tested for COVID 19. Ten of those cases tested positive for COVID 19. They were placed in medical isolation and medically monitored.

12. ERO has continued to transfer detainees for a number of reasons, including staging for scheduled removal flights, changes in custody classification, bed space needs, to prevent overcrowding, for security concerns, and upon identification of more appropriate housing based on age or health concerns. All transfers are medically screened and cleared in accordance with CDC guidelines and the Pandemic Response Requirements.

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, information and belief.

DATED: July 1, 2020

Digitally signed by LIANA J CASTANO
Date: 2020.07.01 12:26:32 -04'00'

Liana J. Castano, Acting Officer in Charge
Assistant Field Office Director
Enforcement and Removal Operations

EXHIBIT 20

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants*.	Case No. 5:19-CV-01546 JGB (SHKx)

DECLARATION OF ROLNEY RODRIGUEZ

I, ROLNEY RODRIGUEZ, hereby declare under penalty of perjury that the foregoing is true and correct.

1. I am an Acting Supervisory Detention and Deportation Officer (SDDO), New Orleans Field Office, employed by the U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO). I have been employed by ICE since March 2017. I am assigned to the LaSalle ICE Processing Center in Jena, Louisiana. However, I am currently acting for the Acting Assistant Field Office Director (AFOD). In this capacity, I manage ERO personnel and provide oversight over several detention facilities within the New Orleans Field Office, including the Catahoula Correctional Center (CCC) in Harrisonburg, Louisiana and the Richwood Correctional Center (RCC) in Monroe, Louisiana.

2. This declaration is based upon knowledge and information obtained from various records and systems maintained by DHS in the regular course of business. I provide this declaration based on the best of my knowledge, information, belief, and reasonable inquiry for the above captioned case.

3. ICE is charged with removing aliens who lack lawful immigration status in the United States. Detention is an important and necessary part of immigration enforcement. ICE detains people 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.

4. The CCC and the RCC are private correctional centers operated by LaSalle Corrections (LC). LC is an independent contractor that provides the facility, management, personnel, and services for 24-hour supervision of detainees at the facilities.

5. ERO New Orleans completed its initial search for members of the certified subclasses in Fraihat v. U.S. Immigration & Customs Enf't, No. EDCV191546JGBSHKX, 2020 WL 1932393, at *1 (C.D. Cal. Apr. 20, 2020), as required by the preliminary injunction entered by that Court, Fraihat v. U.S. Immigration & Customs Enf't, No. EDCV191546JGBSHKX, 2020 WL 1932570 (C.D. Cal. Apr. 20, 2020). For cases that were identified as Fraihat class members and other medically vulnerable detainees, ERO New Orleans reviewed these cases to determine whether continued detention was appropriate. ERO New Orleans continues to review these cases as additional information becomes available or for new detainees entering the facility.

6. Reviews for release based on medical vulnerabilities, including Fraihat class members, are conducted based on the relevant information available to ICE, including information from medical, the alien file, and provided by the detainee or his or her representative. ICE is not under a court order or directive to generally release every medically vulnerable detainee or Fraihat class member, but, as discussed above, to determine whether their continued detention is appropriate. If released, the detainee is notified and provided the relevant paperwork regarding the release, including, if appropriate, an Order of Supervision, release on Own Recognizance, or parole. In most cases, detainees are not provided written notification that they are not being released.

7. However, if a detainee requests parole pursuant to ICE Directive No. 11002.1, "Parole of Arriving Aliens Determined to Have a Credible Fear of Persecution or Torture" (Dec. 8, 2009) (2009 ICE Parole Directive), he or she is provided a brief explanation of the reason for denial as is required by that directive. The New Orleans Field Office normally uses a form letter, Notification Declining to Grant Parole, on which the relevant basis for denial are checked (i.e., flight risk, failure to establish identify, danger to the community, or other factors) with a brief, but generalized, explanation for that basis. Not only is it not required by the Parole Directive, given the large volume of parole decisions, it is not possible to provide an in-depth explanation as to why parole was denied. In addition, detainees who entered without inspection, but are found to have a credible fear of persecution, and request parole, are issued denials of those requests on an Interim Notice Declining to Grant Parole. In any case in which the detainee is provided notice that they will not be released, ERO New Orleans considers all of the relevant and available information, even though, for practical considerations, a full explanation of all of the factors considered may not be provided on the written notice to the alien.

8. The Declaration of Kyle Erik Edgerton makes references to four requests for custody redetermination and alleged problems with obtaining medical records. Without more information, such as the detainee's name or alien number, it is difficult to respond to these allegations. To the extent possible, I have provided responses to his specific allegations below.

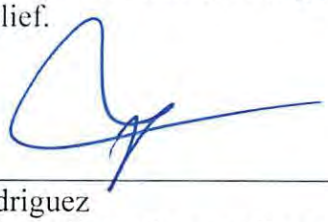
9. In regard to Custody Redetermination Request 1, as noted above, parole for arriving aliens with a credible fear is governed by the 2009 ICE Parole Directive. That directive only requires a brief explanation of the parole denial and it is not practical to provide a detailed explanation of all the factors considered. However, this is in no way an indication that the officer did not consider all the relevant factors in deciding to continue detention. In addition, according to the 2009 ICE Parole Directive, if an alien makes a written request for redetermination, ERO may, at its discretion, consider the request based on the documentary material existing in the record along with any additional material that has been provided.

10. In regard to Custody Redetermination Request 4, it appears that there was some confusion by the reviewing Supervisory Detention and Deportation Officer (SDDO). As mentioned by Attorney Edgerton, his client was denied parole on or about June 8, 2020. Attorney Edgerton made a subsequent parole request two days later. This was at least his fourth parole request. When contacted by Attorney Edgerton, the SDDO seems to have mistakenly believed he was asking about the recently denied request. The confusion was cleared up and the June 10 parole request was immediately adjudicated. Parole was granted and the alien was released from ICE custody at the RCC on June 18, 2020.

11. In response to what Attorney Edgerton described as a "hot potato" issue with receiving medical documents at the CCC, this appears to have been a misunderstanding by the LC staff. I believe the case he is referencing was one first requests that the CCC received for medical records. After consulting with ICE, the CCC was informed that ICE had no policy that would prevent it from providing medical records directly to the attorney, if appropriate.

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, information and belief.

DATED: July 1, 2020



Rolney Rodriguez
(A) Supervisory Detention and Deportation Officer
Department of Homeland Security
U.S. Immigration and Customs Enforcement

EXHIBIT 21

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants*.	Case No. 5:19-CV-01546 JGB (SHKx)

DECLARATION OF ASSISTANT FIELD OFFICE DIRECTOR CARDELL C. SMITH

I, Cardell C. Smith, Assistant Field Office Director (AFOD), make the following statements under oath and subject to the penalty of perjury:

1. I am employed by U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), and, as AFOD, I currently oversee the Baker County Detention Center (Baker) and the Wakulla County Detention Center (Wakulla). I have held this position since February 18, 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 work closely with the Southern Correctional Medicine, which provides direct medical services to the detainee population in Baker and Wakulla. The Southern Correctional Medicine works closely with ICE Health Service Corps (IHSC) and their assigned Field Medical Coordinators (FMCs) who report to the Medical Case Management Unit. The FMCs serve as medical consultants to the ICE field offices and oversee clinical services at Inter-Governmental Service Agreement (IGSA) facilities that house ICE detainees, including Baker and Wakulla.

4. IHSC's FMCs ensure that the provision of medical care by contractors to the ICE detainees within the Inter-Governmental Service Agreement (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 IGSAs 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

5. In April 2020, ERO would conduct custody determinations for Baker and Wakulla detainees based upon the CDC guidelines for COVID-19 risk factors. Shortly thereafter, the order in

Fraihat v. ICE, 19-cv-01546 (C.D. Cal. Apr. 20, 2020) was issued with more restrictive guidelines for COVID-19 risk factors. ERO then conducted additional custody reviews for both Baker and Wakulla based upon the risk factors set forth in the *Fraihat* order. For all detainees who were identified as *Fraihat* subclass members based upon their risk factors, ERO would input that information as an alert into its Enforcement and Removal Module database.

6. Custody reviews based on *Fraihat* risk factors are conducted before a new detainee is taken into custody as long as ERO is aware in advance of a condition that would fall under the two risk factor categories. In addition, within five days of entering ICE custody, detainees that arrive at either facility are also reviewed to determine whether they meet the *Fraihat* criteria. For those who do, the case must be reviewed to determine whether continued detention is appropriate in light of the COVID-19 pandemic.

7. Attorneys of record are advised of the custody review decision, but not the details of that decision-making process. Additionally, statutory detention requirements are not waived when making *Fraihat* custody review decisions.

8. ERO has continued to transfer detainees for a number of reasons, including staging for a scheduled removal flight and bed space needs.

Baker

10. Each detainee is screened for disabilities upon admission into Baker by a medical nurse. Identified disabilities are further evaluated and reasonable accommodations are provided as medically appropriate.

11. During intake medical screenings, detainees, including those transferred from other facilities, are assessed for fever and respiratory illness. Detainees are also asked questions based on a COVID-19 Screening Questionnaire, which includes questions regarding recent travel history, recent close contact with a person with laboratory-confirmed COVID-19 in the past fourteen days, or if they are showing symptoms such as a cough, fever, or loss of taste. Detainees are also asked whether they have traveled from or through area(s) with sustained community transmission in the past two weeks, as well as through areas with a high impact of COVID-19. Detainees are not allowed to join the general population until they have been cleared by medical personnel.

12. 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. The detainee's intake responses and the results of these assessments will dictate whether to monitor or isolate the detainee. Detainees who present symptoms compatible with COVID-19 will be placed in isolation in one of our four medical cells and accordingly tested. If testing is positive, the detainee will remain isolated and treated. Such medical cells are monitored by fifteen-minute check-ins, and staff often walk by the cells. The medical cells are also subject to camera surveillance, and each cell has a panic button for detainees to use to alert a nurse for immediate need. In case of any clinical deterioration, a detainee will be referred to the Ed Fraser Memorial Hospital in MacClenny, Florida for immediate care until bed space can be secured at the University of Florida Shand's Hospital in Gainesville, Florida, or the Jacksonville Memorial Hospital in Jacksonville, Florida.

13. Baker has the following medical capabilities: Baker manages both male and female detainees and provides daily access to sick calls in a clinical setting, as well as access to specialty services and hospital care. Baker also has a medical unit with four medical cells, including two negative air flow cells that can hold up to four detainees. These cells are used for isolation, as well as medical and mental health observation. 24/7 nursing care is provided by the facility, and the medical cells are within eyesight of the nursing station. Fifteen-minute checks are conducted for all patients in the medical cells. Each cell is monitored by video surveillance and equipped with an alarm button to use by a detainee to notify a nurse for immediate need. Specialty care providers are allowed into the facility to provide services, and, if necessary, transportation of detainees is available to the University of Florida Shands Hospital in Gainesville, Florida.

14. Baker is currently operating within the approved population guidelines and is not overcrowded. As of July 1, 2020, the population is at 64% capacity for ICE detainees. Each dormitory in Baker can hold up to thirty-two detainees, and beds are approximately six feet across from one another. Currently, no dormitory is filled to capacity.

15. In Baker, staff implement social distancing by encouraging smaller groups into the common areas such as the recreational and law library areas. On average, recreation areas have about four to five detainees at a time, and the law library averages two detainees per dormitory. Chairs in the common areas of the medical lobby are re-arranged to accommodate for six-foot distancing between patients waiting for treatments. Detainee movement is also limited as much as possible while still allowing for the basic needs of the detainees.

Wakulla

16. Each detainee is screened for disabilities upon admission into Wakulla by a medical nurse. Identified disabilities are further evaluated and reasonable accommodations are provided as medically appropriate.

17. During intake medical screenings, detainees, including those transferred from other facilities, are assessed for fever and respiratory illness before entering the facility Detainees are also asked questions based on a COVID-19 Screening Questionnaire, which includes questions recent close contact with a person with laboratory-confirmed COVID-19 in the past fourteen days, or if they are showing symptoms such as a cough, or fever. Detainees are also asked whether they have traveled from or through area(s) with sustained community transmission in the past two weeks, as well as through areas with a high impact of COVID-19. Detainees are not allowed to join the general population until they have been cleared by medical personnel.

18. 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. The detainee's intake responses and the results of these assessments will dictate whether to monitor or isolate the detainee. Detainees who present symptoms compatible with COVID-19 will be placed in isolation in a negative pressure cell and accordingly tested. If testing is positive, the detainee will remain isolated and treated. Treatment consists of vital signs being monitored twice a day by a registered nurse. Liquids are also provided for hydration and other treatments are provided as needed to alleviate symptoms. In case of any clinical deterioration, a detainee will be referred to a local hospital.

19. Wakulla has the following medical capabilities: Wakulla manages only male detainees, and all detainees are provided daily access to sick calls in a clinical setting as well as hospital care. Medical staff are available to handle sick calls and negative pressure cells are available for medical monitoring and isolation. Screening and testing for COVID-19 is available.

20. Wakulla is currently operating within the approved population guidelines and is not overcrowded. As of July 1, 2020, the population is at 61% capacity for ICE detainees. Dormitories in Wakulla for ICE detainees can hold up to anywhere between eighteen to twenty-nine detainees. Currently, no dormitory is filled to capacity.

21. Staff implement social distancing by encouraging the detainees to sleep in a head to foot pattern and to respect other detainees' personal space. Detainees are also assigned alternating beds when possible, and they are encouraged not to share personal items with other 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, information and belief.

DATED: July 02, 2020

Cardell C. Smith
Assistant Field Office Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

EXHIBIT 22

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants*.	Case No. 5:19-CV-01546 JGB (SHKx)

DECLARATION OF ASSISTANT FIELD OFFICE DIRECTOR JUAN A. LOPEZ VEGA

I, Juan A. Lopez Vega, Assistant Field Office Director (AFOD), make the following statements under oath and subject to the penalty of perjury:

1. I am employed by U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), and currently serve as the Acting Officer in Charge (AIOC) of the Broward Transitional Center (BTC). I have held this position since September 29, 2019. I have been employed with DHS since April 1, 2003.

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 work closely with the GEO Group Inc., which oversees the daily operation of the Broward Transitional Center, a contract detention facility (CDF), and with the GEO Medical Department. The GEO Medical Department provides direct medical, dental, and mental health services to approximately 700 detainees at any given time. The GEO Medical Department works closely with ICE Health Service Corps (IHSC) and their assigned Field Medical Coordinators (FMCs) to ensure compliance in care being offered.

4. IHSC's FMCs ensure that the provision of medical care by contractors to the ICE detainees within the Inter-Governmental Service Agreement (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 IGSAs 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

5. In April 2020, BTC conducted custody reviews based upon the CDC guidelines for COVID-19 risk factors. Shortly thereafter, the order in *Fraihat v. ICE*, 19-cv-01546 (C.D. Cal. Apr. 20, 2020) was issued with more restrictive guidelines for COVID-19 risk factors. BTC then

conducted additional custody reviews based upon the risk factors set forth in the *Fraihat* order. For all detainees who were identified as *Fraihat* subclass members based upon their risk factors, ERO input that information as an alert into its Enforcement and Removal Module database.

6. Attorneys of record are advised of the custody review decision, but not the details of that decision-making process. Additionally, statutory detention requirements are not waived when making custody review decisions.

7. Custody reviews, including CDC and *Fraihat* risk factors, are conducted before new a detainee is taken into custody.

8. ERO has continued to transfer detainees for a number of reasons, including staging for a scheduled removal flight, bed space needs and risk classification.

9. BTC does not provide long-term medical care and does not house detainees who are in need of such care.

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, information and belief.

DATED: July 1, 2020

Juan A. Lopez Vega
Assistant Field Office Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

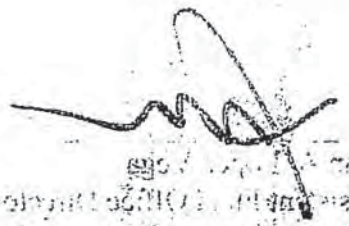


EXHIBIT 23

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants*.	Case No. 5:19-CV-01546 JGB (SHKx)

DECLARATION OF GARY CHAMBERLAIN JR.

I, GARY CHAMBERLAIN JR., hereby declare under penalty of perjury that the foregoing is true and correct.

1. I am the Acting Assistant Field Office Director (AFOD), New Orleans Field Office, employed by the U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO). I have held this position since April 21, 2020 I have been employed by ICE since July 13, 2003. As Acting AFOD, I manage ERO personnel and provide oversight over several detention facilities within the New Orleans Field Office, including the South Louisiana ICE Processing Center (SLIPC) in Basile, Louisiana.

2. This declaration is based upon knowledge and information obtained from various records and systems maintained by DHS in the regular course of business. I provide this declaration based on the best of my knowledge, information, belief, and reasonable inquiry for the above captioned case.

3. ICE is charged with removing aliens who lack lawful immigration status in the United States. Detention is an important and necessary part of immigration enforcement. ICE detains people 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.

4. As an AFOD, I manage the detained docket for aliens who are detained at the SLIPC, 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 the SLIPC and general oversight at the SLIPC, including monitoring of adherence to the ICE Performance-Based National Detention Standards.

5. The SLIPC is a private detention center operated by The GEO Group, Inc. (GEO). GEO is an independent contractor that provides the facility, management, and personnel and services for 24-hour supervision of the detainees at SLIPC.

6. Conditions of detention at the SLIPC are governed by the ICE Performance-Based National Detention Standards 2011, revised 2016 (PBNDS). The PBNDS 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.

7. Medical care at the SLIPC is provided by medical professionals employed by GEO.

8. The SLIPC has the capacity to house 1,000 ICE detainees. As of July 1, 2020, there are 153 ICE detainees housed at the facility. The SLIPC has populations well within its approved capacities and is not overcrowded. The SLIPC houses only ICE detainees.

9. There is daily monitoring of the population percentage at each housing unit. The goal is to facilitate social distancing, as much as practicable.

10. All detainees are encouraged to stay six feet apart, no more than four per table. The TV benches are marked every six feet.

11. Detainees are free to move about the housing unit during daylight hours.

12. Security staff monitors detainee movement to ensure detainees do not crowd around telephones, board games, communal tables or stand too close while waiting in line for any activity.

13. There are three recreation yards at the SLIPC. There is a large recreation year that is approximately 65,535 square feet and two smaller recreation yards that are approximately 9,170 square feet each. Use of the recreation yards is voluntary and the number of detainees allowed in a recreation yard at a time is limited to allow for social distancing.

14. CDC and ICE posters are displayed throughout the housing units and common areas that explain social distancing, hygiene practices and general information on COVID-19.

15. COVID-19 education is provided to all detainees through instructional videos and postings delivered directly to the detainee's personal tablet device.

16. In my current position, I work with the Field Medical Coordinators (FMCs) who report to the Medical Case Management Unit. The FMCs serve as medical consultants to the ICE field offices and oversee clinical services at Inter-Governmental Service Agreement (IGSA) facilities that house ICE detainees, including the SLIPC.

17. IHSC provides direct medical, dental, and mental health patient care to approximately 13,500 detainees housed at 20 IHSC-staffed facilities throughout the nation.

18. 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 IGSAs 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.

19. IHSC comprises a multidisciplinary workforce that consists of U.S. Public Health Service Commissioned Corps (USPHS) officers, federal civil servants, and contract health professionals.

20. 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. [1]

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

22. On April 10, 2020, ICE 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. This guidance was updated on June 22, 2020.[2]

23. 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.

24. At the SLIPC, 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

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[1]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.

[2]https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf.

traveled from or through area(s) with sustained community transmission in the past two weeks.

25. The detainee's responses and the results of these assessments will dictate whether to monitor or isolate the detainee. Detainees who present symptoms compatible with COVID-19 will be placed in isolation and 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.

26. 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) 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. As identified in the PRR, a cohort is a group of persons with a similar condition grouped or housed together for observation over a period of time. Given the significant variance in facility attributes and characteristics, cohorting options and capabilities will differ across the various detention facilities housing ICE detainees.

27. In the SLIPC, cohorting is achieved in the following manners:

- All new arrivals are placed on a precautionary cohort for a minimum of 14 days upon arrival.
- Detainees who have been in the emergency room or hospitalized are isolated for a minimum of 14 days upon return to the SLIPC.
- If a detainee exhibits symptoms suspicious of COVID-19, the detainee is place in isolation pending test results and the dorm that the detainee was previously housed in is placed in cohort status pending the test results.
- If a test is returned as positive, all of the detainees housed the dorm the positive test was returned from will be cohorted for 14 days from the last day they were exposed to the detainee who tested positive.
- Detainees having tested positive, are isolated until they have achieved 72 consecutive hours without fever-reducing medication, symptoms have improved, and two tests are returned as negative at least 24 hours apart.

28. The SLIPC has the following medical capabilities:

- The SLIPC, which manages females only, provides daily access to sick calls in a clinical setting, four observation beds and access to specialty services and hospital care.
- Specialty and hospital care are provided through an off-sight provider as needed.

29. As of 1 p.m. on June 30, 2020, IHSC has the following information:

a. There two confirmed case of COVID-19 among the ICE detainees at SLIPC. Those individuals are in isolation and under medical observation.

b. There is one suspected case of COVID-19 among the ICE detainees at SLIPC. That individual is in isolation pending her test result.

30. The SLIPC has increased sanitation frequency and provide sanitation supplies as follows:

- The SLIPC provides hand sanitizer, disinfectant sprays and wipes, soap, gloves, masks to staff and detainees. Appropriate personal protective equipment (PPE), such as gowns, gloves, masks, face shields, are provided for use as medically appropriate. All staff are required to wear masks while in the facility. The administration is encouraging both staff and the facility general population to use these tools often and liberally.

- The SLIPC 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.

- Masks are issued to the detainees and staff three times per week. Each detainee and staff member have been trained on proper use of masks and are required to wear them.

- Each detainee is provided with shampoo/bodywash, tissue paper, and other hygiene products twice weekly. Additional hygiene products are furnished upon request.

- There have been no shortage of supplies and facility inventory levels are monitored to assure adequate supplies are readily available for future use.

- GEO has implemented intensified cleaning of surfaces and objects that are frequently touched, especially common areas including telecommunication devices, telephones and adjoining areas, etc.

- Living areas are sanitized by GEO staff four times per shift with sanitizing spray.

31. The SLIPC has limited professional visits to noncontact and has suspended in-person social visitation and facility tours.

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

33. The SLIPC 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.

34. The SLIPC 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.

35. The SLIPC 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 *supra*.

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, information and belief.

DATED: July 1, 2020

Gary Chamberlain Jr.
Acting Assistant Field Office Director
Department of Homeland Security
U.S. Immigration and Customs Enforcement

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH FRAIHAT, *et al.*, *Plaintiffs*, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, *Defendants*.	Case No. 5:19-01546-JGB(SHKx) **DEMONSTRATIVE CHART: DEFENDANTS' REBUTTAL DECLARATIONS** **Before The Honorable Jesus G. Bernal** **Hearing Date:** July 17, 2020 **Hearing Time:** 2:00 p.m.

Alex Hernandez, ECF No. 172-3	Bryan S. Pitman
¶ 5 - There has been no change in protocols or procedures in place in light of COVID-19 at Etowah. Detained people in charge of cleaning the common areas lack cleaning materials. When the facility refills the hand soap, it is usually gone by the next day. We then have to wait another week for Etowah staff to refill the hand soap. We only have shampoo to clean ourselves.	¶ 34 - All detainees, including Hernandez, are issued seven bars of hand soap weekly which lasts based on the detainees' personal use. Liquid soap is also available upon request at the Officers desk. There is a surplus of cleaning supplies on hand for the detainees to use and inventory is delivered weekly. Sanitation frequency and sanitation supplies are discussed in more detail in paragraph 22. ¶ 22 - The ECDC has increased sanitation frequency and provides sanitation supplies as follows: • ECDC provides industrial cleaner, soap, hot water, paper towels, and face masks to staff and cleaning crews and CDC-recommended cleaning and disinfection above and beyond normal activity has been implemented. All common areas in the facility are being disinfected multiple times per day. The common areas included are detainee housing areas, law libraries, medical areas, intake areas, door handles throughout the facility, desk and counter surfaces in high traffic areas, lobby seating areas, restrooms, and any other areas the facility identified as needing such cleaning. . . . • Detainees are each provided with seven bars of soap weekly for their personal use. Additional cleaning products such as soap for showers and hand soap for sink handwashing have been added to housing areas and are available at no cost to detainees. Detainees have sinks

	in each individual cell as well as in the general population area for handwashing at any time. Each cell also has a toilet. Detainees can wash their hands as frequently as they want and are encouraged to do so. Detainees are encouraged to communicate with local staff when additional hygiene supplies or products are needed.
¶ 6 - At Etowah, staff does not enforce detained people to wear masks. Some detained people do not wear their mask. I always wear a mask. I have had the same mask for over two months—I have only been given one mask since the COVID-19 outbreak. It is dirty and used. Staff facility started wearing masks around the beginning of May. I have not seen any officers wearing gloves.	¶ 35 - The ECDC staff began wearing face masks on April 9, 2020. Detainees, including Hernandez, are provided with new face masks weekly, or if needed daily based on the detainee's individual circumstance. No detainee, including Hernandez, is in possession of the same face mask for more than one week. ECDC staff enforces the wearing of face masks in the common areas. If a detainee refuses to wear their face mask they are first verbally instructed to comply and if the detainee refuses to comply, they are returned to their cell. Protocols and procedures are discussed in more detail in paragraphs 22 and 24. ¶ 37 - ECDC staff reminds the detainees to maintain the appropriate social distance and enforces the wearing of face masks, as appropriate.
¶ 7 - I have not witnessed any changes in the medical staff at Etowah in light ofCOVID-19, such as increased staffing.	¶ 36 - There has been no need to increase medical staffing since the onset of COVID-19. There have been changes in protocols and procedures, however, in response to COVID-19 and those are discussed in more detail in the above paragraphs.
¶ 8 - I am locked in a cell by myself approximately 19.5 hours a day. Until the end of May, I shared my cell with another individual. Until he moved to another cell, we were locked in a cell together for 21	¶ 37 - Hernandez, along with other detainees, can leave their cell for six hours a day and are given an additional 30 minutes for each meal. During this time, ECDC staff reminds the detainees to

hours a day/ 7 days a week for over a month. It was extremely stressful being isolated with another person in such confined quarters. Other people in the dorm continue sharing a cell under lockdown. All we have is old national geographic magazines and the Bible to read. We are not given any other books to read. At Etowah, the only books we have access to are from the visitation group who can no longer come to the facility. For the 19.5 hours, all I do is read the magazines, listen to the radio, and sleep. ¶ 9 - My dorm is let out of lockdown approximately 4.5 hours a day. There are two floors in the dorm.	maintain the appropriate social distance and enforces the wearing of face masks, as appropriate. Hernandez may choose to stay in his cell for 19 .5 hours or longer but there have been no long-term mass lockdowns at ECDC in the last few weeks, as Hernandez purports. Generally, detainees share their cells within the specified capacity unless they are exhibiting symptoms of an illness. Detainees, including Hernandez, have access to various reading materials through the library and are able to view cable news on the television in the common area. There have been no reports of any altercations due to these protocols and procedures.
¶ 11 - Nurses have never come by to take our temperature once a day and I have never received a COVID-19 test. Medical staff told us they only have testing kits available for the sickest people.	¶ 38 - Hernandez, along with the other detainees in his unit, had a temperature check conducted in March 2020 by the medical staff; no elevated temperatures were present. Daily temperatures are taken in the quarantine and isolation units. General population will only have their temperatures checked whenever warranted by a sick call. COVID-19 tests are reserved for symptomatic detainees.
Oscar Manuel Perez Aguirre, ECF No. 186	**Greg Davies**
¶ 4 - When I got to Aurora, I was taken to a cell in the medical clinic to quarantine. They took my temperature when I arrived. I was still wearing the mask I was given at Sterling. There were two other detained people in cells in the clinic area. We shared a phone and I did not see staff cleaning it. The staff wore masks. One of the other detained people did not wear his. While I was in the clinic, I was only allowed out of my cell to have a shower. I did not have access to television or books.	¶ 42 - Mr. Perez Aguirre was screened at intake on May 15, 2020, in accordance with the procedures detailed in paragraph 23 above. Because he came to the Aurora CDF from a state facility with known COVID-19 exposure, Mr. Perez Aguirre was isolated as a precautionary measure. ¶ 43 - Mr. Perez Aguirre was never housed in an RHU or disciplinary segregation.

¶ 8 - I received another mask at the hospital which I had with me when I returned back to Aurora. When I got back on May 28, I was moved to the pod that is known among detained people as the Hole, where people go for disciplinary reasons. ¶ 9 - While I was in disciplinary segregation, I never saw a member of the mental health staff. ¶ 11 – I am currently in general population in a dorm with approximately 44 other people. I share a cell with someone else. There is no distance among us, especially when we are out in the dayroom. People try to use the phone when we get out and all of the phones are close together. Many people do not wear masks but I try to keep mine on. I get a new one once a week.	¶ 46 - Mr. Perez Aguirre, like all other detainees at the Aurora CDF, receives a new surgical face mask on Mondays, Wednesdays, and Fridays. GEO cannot force detainees to wear face masks, however, it is strongly recommended. ¶ 44 - Mr. Perez Aguirre currently shares a four-person cell with one other person. The dorm that Mr. Perez Aguirre is housed in has a capacity of 80 people, and there are currently 37 other detainees detained in this dorm. ¶ 45 - Because the dorms at the Aurora CDF are operating at approximately half of their capacity, and because only half of those dorms are in the dayrooms at any given time, as discussed in paragraph 34 above, there is sufficient distance at the Aurora CDF for the detainees to practice social distancing.
Lindsay Bailey, on behalf of Guadelupe Flores Hernandez, ECF No. 181	**Greg Davies**
¶ 9 - On May 12, I filed a custody redetermination request and humanitarian parole request for Guadalupe Flores-Hernandez, who is detained at Aurora Contract Detention Facility. My client is a member of the *Fraihat* subclasses based on his diabetes and his advanced age. Mr. Flores-Hernandez is receiving treatment for his diabetes while in detention. ¶ 13 - On May 20, I sent ICE a follow-up e-mail requesting further information about the procedure they followed to decline my client's request and the precautions taken to protect my client from COVID-19.	¶ 37 - On May 14, 2020, after an individualized review of Mr. Flores-Hernandez's custody, including his medical and criminal history, ICE decided to continue detention and communicated that decision to his attorney, Ms. Bailey. ¶ 38 - Precautions were taken to ensure that Mr. Flores-Hernandez's specific medical needs were addressed. ¶ 39 - ICE received additional correspondence from Mr. Flores-Hernandez's attorney, Ms. Bailey, on May 20, 2020, requesting further information about Mr. Flores Hernandez's prior

¶ 14 - On May 21, Officer Jones responded, stating that Mr. Flore-Hernandez was "denied any form of custody redetermination due to his criminal conviction and subsequent 10 year to life sentence for Sex Assault on a [Child]." He directed me to the ICE.gov website for information on the precautions taken to protect my client from COVID-19, and did not provide any information specific to my client or Aurora Contract Detention Facility.	custody reviews and the medical precautions in place. On May 21, 2020, ICE informed Ms. Bailey that Mr. Flores-Hernandez's medical history was reviewed, and that release was denied based on his conviction for sex assault on a child, for which he received a sentence of 10 years to life. ICE also referred Ms. Bailey to the publicly available information on the ICE website regarding precautions taken at ICE detention facilities concerning COVID-19. ¶ 40 - On May 22, 2020, Mr. Flores-Hernandez's request for a custody redetermination before an immigration judge was denied because of his conviction for sex assault on a child. ¶ 41 - Mr. Flores-Hernandez was ordered removed to Mexico by an immigration judge on June 11, 2020, and he was removed to Mexico on June 16, 2020.

DATED: July 8, 2020

Respectfully Submitted,

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