

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOSE CASTANEDA JUAREZ, et al.,

Petitioners,

v.

NATHALIE ASHER, et al.,

Respondents.

CASE NO. 2:20-cv-00700-JLR-MLP

DECLARATION OF
DREW H. BOSTOCK

I, Drew H. Bostock, hereby make the following declaration with respect to the above-captioned matter:

1. I am an Officer in Charge ("OIC") with the Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"), Enforcement and Removal Operations ("ERO") in the Seattle Field Office ("ERO Seattle"). I have held this position since December 2019. Prior to this, I was the Assistant Field Office Director from December 2017 to December 2019. I am currently assigned to the Northwest ICE Processing Center ("NWIPC") in Tacoma, Washington. I have worked in various other positions within ICE since February 2007.

2. Among my responsibilities as the OIC, I manage the detained docket for the aliens who are detained at the NWIPC. This declaration is based upon my personal and professional knowledge and information obtained from various records and systems maintained by DHS and The GEO Group, Inc. 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. The COVID-19 pandemic response is dynamic. Policies and procedures have

1 | been implemented and are updated in response to developing knowledge concerning COVID-19
2 | and changes in criteria and guidance from the Centers for Disease Control. ICE is making every
3 | effort to update the Court accordingly.
4 |

5 | 3. ICE is charged with removing aliens who lack lawful immigration status in the
6 | United States. Detention is an important and necessary part of immigration enforcement. ICE
7 | detains people to secure their presence both for immigration proceedings and their removal, with
8 | a special focus on those who represent a risk to public safety, or for whom detention is
9 | mandatory by law.
10 |

11 | Northwest ICE Processing Center ("NWIPC")

12 | 4. The NWIPC is a private detention center run by The GEO Group, Inc. ("GEO").
13 | GEO is an independent contractor that provides the facility, management, personnel and services
14 | for 24-hour supervision of immigrant detainees in ICE custody at the NWIPC. GEO personnel
15 | are not employed by ICE. The NWIPC operates pursuant to a performance-based contract,
16 | which is a results-oriented method of contracting focused on outputs, quality, and outcomes.
17 | Performance-based contracts do not designate how a contractor is to perform the work, but rather
18 | establishes the expected outcomes and results that the government expects. It is then the
19 | responsibility of the contractor to meet the government's requirements.
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22 | 5. Medical care at the NWIPC is overseen by the ICE Health Services Corps
23 | ("IHSC"), which provides medical services through a combination of U.S. Public Health Service
24 | Commissioned Corps ("USPHS") officers, federal civil servants, and contract health
25 | professionals.
26 |

27 | Admissions of Detainees to the NWIPC

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1 6. The NWIPC has the capacity to house 1,575 detainees and historically often
2 operates near capacity. On March 2, 2020, there were 874 detainees at the NWIPC. By April 1,
3 2020, that number had been reduced to 792 detainees. As of the morning of May 12, 2020, there
4 are 645 detainees currently housed in the facility – i.e. the detainee population at the NWIPC is
5 already reduced to approximately 40.9% of the number of detainees that is usually housed at the
6 facility, and it has also been reduced by approximately 25.1% since March 1, 2020. To date, the
7 average length of stay for a detainee at the NWIPC for fiscal year 2020 (i.e. October 2019 to
8 present) has been 89 days.
9

10
11 7. The last transfer of new detainees the NWIPC received from the southern border
12 occurred the first week of March 2020.¹ ICE does not anticipate any further transfers from the
13 southern border in the reasonably foreseeable future both because the Migrant Protection
14 Protocols² have significantly reduced the overall numbers of individuals entering into ICE
15 custody from the southern border, and because of restrictions on border travel instituted as a
16 result of COVID-19. *See* Fact Sheet: DHS Measures on the Border to Limit the Further Spread
17 of Coronavirus, March 23, 2020, available at: [https://www.dhs.gov/news/2020/03/23/fact-sheet-](https://www.dhs.gov/news/2020/03/23/fact-sheet-dhs-measures-border-limit-further-spread-coronavirus)
18 [dhs-measures-border-limit-further-spread-coronavirus](https://www.dhs.gov/news/2020/03/23/fact-sheet-dhs-measures-border-limit-further-spread-coronavirus) (accessed May 12, 2020).
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21 8. On March 18, 2020, ICE announced that it would immediately adjust its
22 enforcement posture to ensure safety in light of the ongoing COVID-19 pandemic to focus its
23 enforcement on public safety risks and individuals subject to mandatory detention based on
24 criminal grounds. *See* Updated ICE Statement on COVID-19, March 18, 2020, available at:
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27 ¹ On March 10, 2020, April 28, 2020, and May 5, 2020, several prior NWIPC detainees who had been sent to
28 Florence, AZ and Oakdale, LA to stage for charter removal flights were returned to the NWIPC when their flights
were cancelled. These returns consisted of three, one, and four detainees respectively.

² Under the Migrant Protection Protocols, aliens who are not nationals or citizens of Mexico who are arriving in the
United States by land from Mexico may be returned to Mexico pursuant to INA § 235(b)(2)(C) for the duration of
their removal proceedings.

1 <https://www.ice.gov/news/releases/updated-ice-statement-covid-19> (accessed May 12, 2020).

2 For individuals who do not fall into those categories, ICE is currently exercising its discretion to
3 delay enforcement actions until after the COVID-19 crisis or utilize alternatives to detention, as
4 appropriate. *Id.*

5
6 9. Aliens who come into custody of the local U.S. Border Patrol and U.S. Customs
7 and Border Protection (“CBP”), either at the border or in the interior, are also transferred to the
8 NWIPC. On March 20, 2020, the United States and Canada announced a joint initiative in
9 response to the COVID-19 pandemic to limit non-essential cross-border land travel starting
10 March 21st. *See* Joint Statement on U.S.-Canada Joint Initiative: Temporary Restriction of
11 Travelers Crossing the US-Canada Land Border for Non-Essential Purposes, available at:
12 [https://www.dhs.gov/news/2020/03/20/joint-statement-us-canada-joint-initiative-temporary-](https://www.dhs.gov/news/2020/03/20/joint-statement-us-canada-joint-initiative-temporary-restriction-travelers-crossing)
13 [restriction-travelers-crossing](https://www.dhs.gov/news/2020/03/20/joint-statement-us-canada-joint-initiative-temporary-restriction-travelers-crossing) (accessed April 8, 2020).
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16 10. Due to the shift in ICE’s enforcement focus and the significant reduction in cross-
17 border travel, ICE expects only a limited number of incoming detainees at the NWIPC during the
18 COVID-19 crisis – the majority of whom will be aliens who are public safety risks and those
19 subject to mandatory custody on criminal immigration grounds.
20

21 ERO’s COVID-19 Pandemic Response Requirements

22 11. Because ICE exercises significant authority when it detains people, ICE must do
23 so in a humane manner, with a focus on providing safe conditions and care. Conditions of
24 detention at the NWIPC are generally governed by the Performance-Based National Detention
25 Standards 2011 (“PBNDS”). The PBNDS reflects ICE’s ongoing effort to tailor the conditions
26 of immigration detention to its unique purpose while maintaining a safe and secure detention
27 environment for detainees and staff.
28

12. On April 10, 2020, ERO released its *COVID-19 Pandemic Response Requirements* (“ERO 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 unprecedented public health crisis. See *COVID-19 Pandemic Response Requirements*, Version 1.0, April 10, 2020, available at: <https://www.ice.gov/coronavirus> (accessed May 12, 2020). The ERO PRR was developed in consultation with the Centers for Disease Control (“CDC”) and is a dynamic document that is expected to be updated as additional/revised information and best practices become available. *Id.* at 3.J.

13. ICE detention standards applicable to all facilities housing ICE detainees “have long required that each facility have written plans that address the management of infectious and communicable diseases, including but not limited to, testing, isolation, prevention, treatment, and education.” *Id.* at 4. Those requirements include the reporting and collaboration with state and local health departments in accordance with state and local laws and recommendations. *Id.*; see 2011 ICE Performance-Based National Detention Standards (“2011 PBNDS”), Standard 4.3, Part V.C.1 (concerning communicable disease and infection control), available at: <https://www.ice.gov/doclib/detention-standards/2011/4-3.pdf> (access May 12, 2020).

14. The ERO PRR is intended to “provid[e] guidance on the minimum measures required for facilities housing ICE detainees to implement ensure consistent practices throughout [ICE’s] detention operations and the provision of medical care across the full spectrum of detention facilities to mitigate the spread of COVID-19.” *Id.*

1 15. Consistent with ICE detention standards, all facilities housing ICE detainees are
2 required to have a COVID-19 mitigation plan that meets the following objectives:

3 a. To protect employees, contractors, detainees, visitors to the facility, and
4 stakeholders from exposure to COVID-19;

5 b. To maintain essential functions and services at the facility throughout the
6 pendency of the pandemic;

7 c. To reduce movement and limit interaction of detainees with others outside
8 their assigned housing units, as well as staff and others, and to promote social distancing within
9 housing units; and
10

11 d. To establish means to monitor, cohort, quarantine, and isolate the sick
12 from the well.
13

14 *Id.* at 4.
15

16 16. In addition to the 2011 Performance-Based National Detention Standards, the
17 ERO PRR requires that all ICE dedicated detention facilities³ must comply with the CDC's
18 Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional
19 and Detention Facilities as well as ICE's March 27, 2020 Memorandum to Detention Wardens
20 and Superintendents on COVID-19 Action Plan Revision 1, and any subsequent updates. *See*
21 ERO PRR at 5; CDC Interim Guidance on Management of Coronavirus Disease 2019 (COVID-
22 19) in Correctional and Detention Facilities ("CDC Interim Guidance"), March 23, 2020,
23 available at: [https://www.cdc.gov/coronavirus/2019-ncov/community/correction-](https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html)
24 [detention/guidance-correctional-detention.html](https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html) (access May 12, 2020).
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27 Safety Measures at the NWIPC: Detainee Admissions
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³ Dedicated facilities are those, like the NWIPC, that house only ICE detainees.

1 17. Upon admission, the PBNDS requires that medical and mental health screening
2 shall be conducted “to identify requirements for medical care, special needs and housing, and to
3 protect the health and safety of others in the facility.” *See* 2011 PBNDS Standard 2.1, Part I.V.
4
5 As a response to COVID-19, IHSC has implemented certain safety protocols, including those
6 conducted at the initial medical screening. Effective March 26, 2020, IHSC implemented
7 temperature and verbal prescreening checks of all new detainees arriving at the NWIPC prior to
8 entrance to the facility. *See* ERO PRR at 12 (requiring facilities to conduct pre-intake screening
9 of all new entrants for symptoms of COVID-19); CDC Interim Guidance at p. 10 (conduct pre-
10 intake screening and temperature checks for all new entrants).
11

12 18. The PBNDS requires that all incoming detainees’ personal property and valuables
13 must be inventoried and stored. *See* 2011 PBNDS Standard 2.1, Part I.V. Further, all incoming
14 detainees must be afforded the opportunity to shower and provided with clean clothing, bedding,
15 towels and personal hygiene items. *Id.*
16

17 19. GEO provides each detainee arriving at the NWIPC an instructional flyer
18 outlining proper hand washing hygiene and the importance of covering coughs. In addition, the
19 NWIPC-specific detainee handbook, which is provided to all NWIPC detainees upon admission
20 to the facility, includes a medical section which stresses the importance of handwashing,
21 covering coughs and showering/personal hygiene; advises detainees how to make visits to the
22 medical clinic for sick call and urgent care; and provides basic information concerning the
23 difference between a cold and the flu. *See* 2011 PBNDS Standard 4.3, Part V.D (requiring
24 detainee handbook to advise detainees how to access medical care). In response to COVID-19,
25 additional posters in multiple languages concerning hand washing hygiene and covering coughs
26 have also been placed in each housing unit at the NWIPC to educate detainees. *See* ERO PRR at
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1 9 (requiring signage to be posted throughout the facility reminding detainees and staff to practice
2 good hygiene and cough etiquette). These posters include, inter alia, pictorial as well as written
3 advisals concerning handwashing and instructions to submit a Detainee Request Form if
4 additional hygiene supplies are needed. *See* CDC Interim Guidance at p. 6 (recommending
5 signage be understandable for non-English speakers and those with low levels of literacy).
6

7 20. All incoming detainees to the NWIPC who do not meet the current IHSC protocol
8 requirements for isolation monitoring due to possible COVID-19 symptoms, exposure or testing,
9 are placed in three separate housing units for 14 days of monitoring for signs or symptoms of
10 COVID-19. *See* ERO PRR at 14 (stating “[c]onsiderable effort should be made to quarantine all
11 new entrants for 14 days before they enter the general population”); CDC Interim Guidance at p.
12 14 (new intake quarantine). Two units are designated for male detainees and another for female
13 detainees. These housing units contain separate cells.⁴ Each cell may house up to four
14 detainees, however, not every cell is filled to maximum occupancy. Detainees who are admitted
15 to the facility on the same date and who are determined to be the same risk classification level
16 may be housed in the same cell. Detainees admitted on separate dates and those at different risk
17 classification levels are not housed together. Detainees in the 14-day observation period are not
18 allowed to comeingle with other detainees in common areas during that 14-day period. If 14 days
19 pass without any detainees in a cell displaying signs or symptoms of COVID-19, the detainees
20 are released to other housing units in the facility. A separate remote medical unit has been
21 established to monitor detainees undergoing 14-day observation in these two housing units.
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23 Safety Measures at the NWIPC: Detainee Education, Hygiene & Sanitation
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28 ⁴ The NWIPC consists of 21 separate housing units: 11 open bay units, 6 celled units, and 4 mixed cell/open bay units. Open bay units generally consist of bays created by floor to ceiling side walls with no front wall or door so that front of each bay is open to the housing unit. Each bay typically contains two bunkbeds and can therefore house four detainees.

21. Section 1.2 of the PBNDS sets forth the detention standard for protecting detainees, staff, volunteers and contractors from injury and illness by maintaining high facility standards of cleanliness and sanitation, safe work practices, etc. Pursuant to PBNDS Standard 1.2, Section V.1, the environmental conditions at the NWIPC must be maintained at a level that meets recognized standards by the Centers for Disease Control (“CDC”), the American Correctional Association, the Occupational Health and Safety Administration, the Environmental Protection Agency and the Food and Drug Administration. Under the PBNDS, GEO is responsible for “developing and implementing policies, procedures and guidelines that are intended to identify and eliminate or control as necessary....modes of transmission of agents or vectors of communicable disease.” *See* 2011 PBNDS Standard 1.2, Section V. As a minimum of general housekeeping, the PBNDS requires that all horizontal surfaces in the facility be damp dusted daily with an approved germicidal solution; that all furniture and fixtures be cleaned daily; and that all floors be mopped daily with a clean mop head. *See id.*

22. Under the ERO PRR, GEO is to ensure that surfaces and objects that are frequently touched, especially those in common areas (e.g. doorknobs, light switches, sink handles, countertops, toilets, recreation equipment) are cleaned and disinfected several times a day. *See* ERO PRR at 10.

23. Janitorial services within the detention areas of the NWIPC are usually conducted by trained detainee workers engaged in the facility’s Volunteer Work Program.⁵ In response to COVID-19, GEO has informed ICE that it has enhanced cleaning in all housing units, food preparation and service areas, intake rooms and other work centers with increased emphasis on

⁵ While the CDC Interim Guidance recommends increasing cleaning of high contact surfaces to “several times per day,” it does not state that special deep cleaning janitorial services are required. Instead, the Guidance recommends that facilities “[u]se household cleaners and EPA-registered disinfectants effective against the virus that causes COVID-19 as appropriate for the surface.” *See* CDC Interim Guidance at p. 9.

1 cleaning contact areas with disinfectant cleaners approved as effective against COVID-19. *See*
2 CDC Interim Guidance at p. 9 (intensify cleaning/disinfection practices to include cleaning high
3 contact surfaces “several times per day”). GEO has enrolled and trained two additional detainee
4 workers per housing unit in the Volunteer Work Program to conduct enhanced cleaning from
5 8:00a.m.-10:00p.m. seven days per week. *See* CDC Interim Guidance at p. 9 (“Consider
6 increasing the number of staff and/or incarcerated/detained persons trained and responsible for
7 cleaning common areas”). A GEO Sanitation Officer is responsible for monitoring the detainee
8 workers. There are one or two housing units where no detainees elected to participate in the
9 program. GEO employees have been trained to conduct enhanced cleaning in those units.

12 24. Under the ERO PRR, GEO is responsible for ensuring sufficient stock of hygiene
13 supplies (soap, hand sanitizer, tissues) and personal protective equipment (“PPE”) (to include
14 facemasks, N95 respirators, eye protection disposable medical gloves) for all areas of the
15 NWIPC except the medical clinic. *See* ERO PRR at pp. 8-9; CDC Interim Guidance at p. 7, 10.
16 In addition, GEO is required to provide detainees and staff no-cost, unlimited access to supplies
17 for hand cleansing, including liquid soap, running water, hand drying machines or disposable
18 paper towels, and no-touch trash receptacles. *Id.* at 9; *see also* CDC Interim Guidance at p. 7.
19 Soap and cleaning supplies are made available by GEO to detainees at the NWIPC in all housing
20 units and work areas. GEO has informed ICE that it has increased the amount of soap,
21 disinfectant cleaner and food service sanitizer in every housing unit in response to COVID-19,
22 and that inventory levels of these supplies are monitored on each shift to ensure ready
23 availability. *See* ERO PRR at 12 (encouraging facilities to prevent the introduction of COVID-
24 19 by “reinforcing good hygiene practices...(including increasing access to soap and paper
25 towels), [and] intensifying cleaning/disinfection practices...”); CDC Interim Guidance at p. 7

1 (reinforce good hygiene practices) and p. 9 (provide and continually restock hygiene supplies).
2 ICE has confirmed with GEO that soap is being provided to detainees at the NWIPC at no cost to
3 the detainee. Detainees in the NWIPC can directly communicate with ICE officers through a
4 digital messaging system ("kite" system) available in the housing units. ICE searched all
5 detainee kites to ICE from March 6, 2020 to May 7, 2020 and did not find any complaints
6 regarding lack of soap, sanitation or cleaning issues at the NWIPC. On May 12, 2020, ICE
7 requested that GEO provide copies of all Detainee Request Forms, kites to GEO and/or
8 grievances to GEO from March 1, 2020 to present concerning soap, paper towels and/or cleaning
9 supplies. In response, GEO provided one grievance, dated March 6, 2020, specifically
10 requesting bar soap for handwashing. The grievance was closed with a response to the detainee
11 that liquid soap is already available in the housing unit. See CDC Interim Guidance at p. 7
12 (stating use of liquid soap in detention facilities is preferred over bar soap).
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16 25. GEO has informed ICE that, as a response to COVID-19, its executive staff have
17 been conducting weekly town hall meetings with detainees in every housing unit at the NWIPC
18 specifically to educate detainees on hand washing and covering coughs. At these meetings, GEO
19 is also instructing detainees to clean tables and horizontal surfaces with San-T-10 Plus Food
20 Service Sanitizer before each meal and a neutral disinfectant after each meal. Detainees are
21 further instructed to clean countertops, microwave handles, door handles, exercise equipment,
22 electronic tablets used for detainee entertainment and communication, telephones and any high-
23 contact areas with disinfectant cleaner. A demonstration is provided on how to clean electronic
24 tablets and telephones and detainees are instructed to clean them after each use.
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27 26. GEO has informed ICE that other topics are covered in the weekly town hall
28 meetings, including: reminders for detainees to go to sick call if they feel ill; updates concerning

1 whether detainees or employees at the NWIPC have tested positive for COVID-19; reassurance
2 that all visitors and staff who enter the facility are being screen for COVID-19 and that all new
3 detainees are being screened in 14-day observation units to protect the general detainee
4 population; reassurance that GEO is monitoring the level of critical supplies to ensure
5 availability during the pandemic; and reassurances that the immigration court remains open and
6 that releases as well as removals are continuing.
7

8 27. In addition, IHSC's on-staff Infectious Disease Prevention Officer ("IPO") is
9 conducting medical townhall meetings with every housing unit except the 14-day observation
10 units and the Special Management Unit to educate detainees about how COVID-19 spreads;
11 discuss COVID-prevention; educate and encourage detainees to wear face masks and to practice
12 social distancing; and to answer any detainee questions concerning COVID-19.⁶ The IPO has
13 informed ERO that detainees are specifically advised that they can roughly calculate at least six
14 feet of physical distance by extending their arm straight from their shoulder and then taking 3-5
15 additional steps backwards, depending on the size of the steps. *See* CDC Interim Guidance at p.
16 10 (communicate information verbally encouraging all persons to in the facility to protect
17 themselves and others on a regular basis) and p. 12 (consider having healthcare staff perform
18 rounds on a regular basis to answer questions about COVID-19).
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22 28. On April 15, 2020, ICE requested GEO post the attached informational poster
23 concerning COVID-19 in all housing units and holding rooms in the NWIPC to provide all
24 detainees information concerning how ICE is responding to COVID-19; instructions on what to
25 do if a detainee suspects he or she has been exposed to COVID-19; etc. *See* Exhibit A (ICE
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28 ⁶ Townhalls are not being held in these units because detainees there are housed in cells and cannot comingle. However, IHSC medical staff conduct individual daily check-ins with each detainee to address medical concerns and answer questions.

1 COVID-19 Informational Poster); *see* CDC Interim Guidance at p. 6 (recommending signage be
2 posted throughout detention facilities with and hygiene instructions and to report symptoms to
3 staff immediately).

4
5 29. On April 17, 2020, GEO began distributing surgical face masks to NWIPC
6 detainees for voluntary use along with written and pictorial instructions on how to wear them.
7 GEO is currently providing detainees new masks three days per week, as needed, based on
8 current supplies. Detainees are instructed to contact their unit staff GEO officer if a mask needs
9 to be replaced prior to the next issuance date. Masks are offered to all detainees, however, not
10 all detainees have accepted. I receive notification in the form of an email from GEO containing
11 rosters of all the NWIPC detainees, indicating who accepted and declined a mask in every
12 housing unit, every time they are offered. I can therefore confirm that GEO has been offering
13 masks to detainees three times per week.
14
15

16 Safety Measures at the NWIPC: Other Housing & Movement-related

17 30. In addition to reducing the overall detainee population at the NWIPC, ICE has
18 worked with GEO to redistribute the detainees in custody among the housing units as much as
19 possible to allow for greater social distancing.
20

21 31. Among the 21 housing units at the NWIPC are three housing units used for the
22 14-day observation period, the medical housing unit, and the Special Management Unit⁷ – all of
23 which can be used for general population housing. Two other housing units remain empty and
24 are designated for emergency purposes. These units are empty to provide medical overflow
25 housing in the event of a possible COVID-19 outbreak at the facility and to provide an available
26 general population housing unit should any other emergency need arise, e.g. when other housing
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⁷ The Special Management Unit includes the Administrative Segregation Unit and the Disciplinary Management Unit. *See* PBNDS 2.12.

units are placed under medical cohorting and additional housing is needed. *See* CDC Interim Guidance at p. 6 (recommending that facilities ensure that physical locations have been identified to isolate confirmed COVID-19 cases and quarantine known close contacts of cases, noting that the plan should include contingencies for multiple locations). In other words, there are 15 housing units currently in use for general population.

32. Detainees cannot simply be divided evenly among housing units. According to 2011 PBNDS Standard 2.2, Section V.A, all detainees must be assigned a classification level before being admitted to the general population. For detainee safety, the PBNDS requires that detainees be housed according to classification level. *See* 2011 PBNDS Standard 2.2, Section V.F. Detainees of different classification levels may not ordinarily be housed together in the same housing unit. *See* 2011 PBNDS Standard 2.2, Section V.G. If it does become necessary to house detainees of different classification levels together in the same unit, the PBNDS specifies that high classification level detainees may not be housed with low; low and medium-low level detainees may be housed together; and medium-high and high level detainees may be housed together; etc. *Id.* In addition, male and female detainees cannot be housed together. In sum, the requirement that housing units be assigned by classification level and sex affects the distribution of detainees within and across housing units. There are also disability/medical accommodations that require certain detainees to be assigned lower bunks on lower levels of housing units that must also be considered when distributing the population.

33. Detainee to bed ratios in the general population units at the NWIPC as of May 12, 2020 are as follows:

Housing Unit	Total Beds in Unit	Occupied Beds/ Detainees in Unit	% of Beds Filled
1	125	40	32%

2	90	40	44.4%
3	90	34	37.8%
4	125	21	16.8%
5	90	44	48.9%
6	90	48	53.3%
7	125	39	31.2%
8	90	52	57.8%
9	90	49	54.4%
10	73	15	20.5%
11	64	41	64.1%
12	64	46	71.9%
13	75	48	64%
14	75	34	45.3%
15	75	28	37.3%

34. For detainee safety and facility security, beds/bunks within the NWIPC are bolted to the floor and therefore cannot be spaced farther apart. In addition to significantly reducing the detainee population and redistributing the detainees among the housing units, GEO has therefore redistributed the detainees among the beds/bunks to the extent possible and implemented head to foot sleeping arrangements so that there is greater distance between detainees. *See* CDC Interim Guidance at p. 11 (recommending reassignment of bunks to provide more space between detainees and to arrange that detainees sleep head to foot).

35. During the week of April 6, 2020, ICE began working with IHSC and GEO to specifically determine which distribution accommodations could be made for certain detainees identified as having medical conditions that place them at higher risk of serious illness due to COVID-19, including a preference for single cell placement, followed by leaving empty bunks around the specific detainee to provide greater distance from other detainees. Selected detainees were interviewed by IHSC to discuss these medical accommodations. The majority of detainees who were offered special accommodation in the form of relocation to a cell declined this opportunity.

1 36. Detainees at the NWIPC eat within their housing units, i.e. food is delivered to
2 each housing unit individually. As a consequence, meal times at the NWIPC are already
3 staggered. *See* CDC Interim Guidance at p. 11 (suggesting facilities stagger meal times and that
4 meals be provided within housing units). Tables are provided in each housing unit, but detainees
5 are not required to sit at the tables to eat.⁸ Detainees who wish to maintain further social
6 distancing may take their trays and sit on their bunks to eat. Detainees are also able to purchase
7 pre-packaged foods through the commissary system if they do not want to eat the meals provided
8 by the facility.
9

10
11 37. Most movement within the facility is unit-specific, meaning each housing unit has
12 a designated time to go to recreation, religious services, and the law library. In this way,
13 detainees from different housing units do not comeingle. *See* CDC Interim Guidance at p. 11
14 (suggesting facilities stagger activities, including restricting recreation space to a single housing
15 unit where feasible). Detainees are not required to go to any of these activities if they do not
16 desire to do so. There is ample room for social distancing in the recreation yard. There is less
17 room to do so in the law library, though it is limited to a certain number of detainees at a time on
18 a sign-up basis.
19

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21 38. Movements to the pill line for medication, the medical unit for sick call (except
22 for urgent care), and attorney visits are done by risk classification level.

23 39. GEO has informed ICE that it has placed six foot indicator marks on the benches
24 in the court/visitor holding rooms, medical holding room and intake holding rooms to assist
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28 ⁸ Petitioners submitted multiple detainee declarations expressing concern about sitting at table with other detainees. However, none of the detainees attested that they had ever attempted or been denied the opportunity to partake of their meal while sitting on their beds/bunks, which would provide them greater distance.

1 detainees in social distancing while in the facility. *See* CDC Interim Guidance at p. 11. Marks
2 were also placed in the hallways where detainees wait for pill line and for security doors to open.

3
4 Safety Measures at the NWIPC: Visitors & Staff

5 40. On March 13, 2020, ICE temporarily suspended social visitation at detention
6 facilities, including the NWIPC, to prevent the spread of COVID-19. *See* ERO PRR at 13
7 (encouraging facilities to “prohibit, or at a minimum, significantly adopt restricted visitation
8 programs...”); CDC Interim Guidance at p. 13 (consider suspending/modifying visitation and
9 encourage noncontact visits). Detainees at the NWIPC continue to have communication access
10 through telephones and electronic tablets provided in each housing unit. The electronic tablets
11 allow for video communication. *See* CDC Interim Guidance at p. 13 (provide alternate phone or
12 video visitation if suspending contact visits).
13

14 41. All tours of the NWIPC have been cancelled, as have all volunteers expect for the
15 chaplain/religious services provider. *Id.* at p. 14 (restrict tours and volunteers from entering the
16 facility).
17

18 42. ICE and GEO have implemented COVID-19 verbal and temperature screening
19 checks of all contractors, vendors, attorneys and court visitors. *See* CDC Interim Guidance at p.
20 13. Verbal screening is conducted through a questionnaire that includes, inter alia, questions
21 regarding whether the individual is currently experiencing any possible symptoms of COVID-19
22 and recent travel history. *Id.* Individuals who positively report possible symptoms, possible
23 exposure to COVID-19, or recent travel to areas of concern are prohibited from entering the
24 NWIPC.
25
26

27 43. Attorney visits at NWIPC are limited to noncontact visits unless a contact visit is
28 absolutely necessary and has been approved by the ICE Officer in Charge or the Assistant

1 Officer in Charge. If an attorney's request for a contact visit is approved, attorneys must wear
2 personal protective equipment ("PPE"), including masks. Attorneys who are unable to furnish
3 their own masks are provided surgical masks by GEO.⁹ In addition, ICE has implemented a
4 daily duty officer to facilitate unmonitored attorney-client phone calls from each housing unit so
5 that detainees do not have to move throughout the facility. *See* ERO PRR at 13.

7 44. GEO has removed every other chair from the facility's lobby to increase social
8 distancing. *See* CDC Interim Guidance at p. 11.

9 45. ICE and GEO employees have received multiple instructions and reminders
10 concerning the importance of hand washing and covering coughs to prevent the spread of
11 COVID-19 and extra hand sanitizer has been provided to employees throughout the NWIPC.
12 ICE has provided its own employees with disinfectant wipes so they may conduct extra daily
13 cleaning of high contact areas within their workspaces (door handles, phones, computers, etc.) in
14 addition to the daily cleaning provided by GEO maintenance staff. GEO is providing individual
15 bottles of hand sanitizer to each of its employees to be checked out at the start of each shift. *See*
16 CDC Interim Guidance at p. 10 ("Consider allowing staff to carry individual size bottles [of hand
17 sanitizer] to maintain hand hygiene."). In addition, GEO is conducting cleaning of all shared
18 equipment (radios, keys, etc.) several times per day and at the conclusion of each shift. *Id.* at p.
19 9 (recommending staff clean shared equipment several times per day and at conclusion of use).

23 46. ICE and GEO have implemented COVID-19 verbal and temperature screening
24 checks of all employees and staff for GEO, ICE, and the Executive Office for Immigration
25 Review ("EOIR") entering the NWIPC. *See* ERO PRR at 12 (requiring pre-intake screening for
26 all staff); *see also* CDC Interim Guidance at p. 12 (recommending verbal and temperature checks
27

28 _____
⁹ Due to the general shortage of N95 masks, GEO is unable to provide private attorneys with N95 masks for contact visits.

1 on all staff daily on entry). To do this, entry to the facility has been limited to a single controlled
2 entrance. *See* CDC Interim Guidance at p. 9 (limit the number of operational entrances/exits to
3 the facility). Staff who do not clear the screening process, or refuse the enhanced health
4 screening, will be denied entry into the facility. *Id.* at p 12 (send staff home who do not clear the
5 screening process).
6

7 47. Offices for ERO, OPLA and EOIR employees at the NWIPC are located in
8 separate parts of the facility than the detention space where detainees are housed. Entrance to
9 these offices and travel between them does not require transit through the spaces occupied by
10 detainees. The sole exception is the medical clinic and offices for IHSC and medical staff, which
11 are located within the detention space of the facility. ERO staff does have contact with detainees
12 in the course of performing its duties. In addition, ERO conducts scheduled and unannounced
13 visits to the housing units on a weekly basis to personally address detainee concerns and answer
14 questions. Written schedules are posted within detainee housing units.
15
16

17 48. Masks have been required for all ICE and GEO staff in the medical clinic and
18 medical housing unit at the NWIPC since March. On April 6, 2020, ERO requested that any of
19 its officers who have contact with detainees in any area of the NWIPC voluntarily wear masks.
20 Surgical masks have been provided for their use. It is my observation and belief that all ERO
21 officers have been voluntarily complying with this request. GEO has been providing masks and
22 gloves for use by its employees in areas outside the medical unit at the NWIPC on a voluntary
23 basis. However, on May 11, 2020, ICE Headquarters informed Seattle ERO that GEO Corporate
24 has agreed to implement a mandatory mask policy for all its employees who are in close
25 proximity with detainees. ICE has not yet received notice from GEO the date this will be
26 implemented at the NWIPC.
27
28

1 49. ICE and GEO employees have been instructed to stay home in the event that they
2 are sick, experiencing any possible symptoms of COVID-19, or have been in close contact with
3 someone diagnosed with COVID-19. *See* ERO PRR at 8 (requiring that facilities ensure staff
4 can stay home when sick and that any staff who report to work with symptoms be sent home);
5 CDC Interim Guidance at p. 6 (ensure staff is actively encouraged to stay home when sick).
6 Staff have also been asked about recent travel to areas with COVID-19 outbreaks, such as New
7 York. Both GEO and ICE employees who are ill or believe they may have been exposed to
8 COVID-19 are instructed to follow the advice of their personal care providers, including
9 regarding testing. *See* ERO PRR at p. 8; CDC Interim Guidance at p. 6 (recommending facilities
10 advise staff members who may be sick with COVID-19 to self-isolate at home and contact their
11 healthcare provider to determine if they need to be evaluated and tested). GEO staff are required
12 to report to their employer if they test positive for COVID-19. *See* ERO PRR at p.8; CDC
13 Interim Guidance at p. 6. While GEO is not required to report to ICE if any of its employees at
14 the NWIPC have been tested or diagnosed with COVID-19, both parties have a solid working
15 relationship and GEO is voluntarily providing that information to ICE in a regularly and timely
16 manner. GEO is also informing ICE the date the employee being tested was last in the facility
17 and to which post the employee was assigned in the event that contact tracing must be
18 conducted. As of May 15, 2020, GEO has informed ICE that thirteen (13) NWIPC GEO
19 employees have been tested for COVID-19. All of the tests have returned with negative results.
20 No ICE employees at the NWIPC have reported having been tested. One ICE contractor at the
21 NWIPC has been tested and the results were negative. In sum, no GEO or ICE employees have
22 tested positive for COVID-19.
23
24
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28

1 50. If a staff member is confirmed to have COVID-19, the relevant employers will
2 inform other staff of their possible exposure to COVID-19 consistent with any legal limitations
3 on sharing such information. Exposed employees must then stay home and self-monitor for
4 COVID-19 symptoms. *See* ERO PRR at p. 8.
5

6 51. ICE has instituted a telework program for its employees at the NWIPC to
7 minimize the number of employees present at the facility. *See* CDC Interim Guidance at p. 7
8 (identify staff whose duties would allow them to work from home).
9

10 a. Currently, ERO Tacoma has implemented a 50% telework program – meaning
11 that only half of ERO employees are present at the NWIPC at any one time.
12 Teleworking ERO employees rotate on a two-week basis. This does not include
13 some limited support staff whose duties are not conducive to telework and are
14 necessary for the functioning of the office.
15

16 b. The Tacoma ICE Office of the Principal Legal Advisor (“OPLA”), which
17 provides legal services and represents the Department before EOIR, has instituted
18 a maximum telework program. All OPLA employees have been asked to
19 telework unless it is absolutely necessary for them to be in the office. This does
20 not include some limited support staff whose duties are not conducive to telework
21 and are necessary for the functioning of the office, e.g. those required to open and
22 scan incoming legal mail.
23

24 Safety Measures: Removal Proceedings at the Tacoma Immigration Court
25

26 52. Removal proceedings before the Tacoma Immigration Court, which is colocated
27 within the NWIPC, currently continue to proceed at this time. This includes bond hearings.
28

1 53. Multiple measures have been implemented by EOIR and ICE in response to
2 COVID-19. On March 18, 2020, EOIR issued a memo regarding *Immigration Court Practices*
3 *During the Declared National Emergency Concerning the COVID-19 Outbreak*. See
4 <https://www.justice.gov/eoir/file/1259226/download> (accessed March 25, 2020). This
5 memorandum sets out specific safety measures implemented by EOIR in response to COVID-19,
6 including but not limited to:

- 7
- 8 a. Requiring all persons having business before an immigration court notify an
9 employee at the security screening checkpoint of certain types of recent travel;
10 whether they have asked to self-quarantine; whether they, or someone with whom
11 they have contact with has had contact with, has been diagnosed with COVID-19
12 in the last 14 days.
 - 13 b. Reminding immigration judges that the presence of represented aliens at hearings
14 may be waived and that continuances may be granted upon a showing of good
15 cause.
 - 16 c. Encouraging parties to resolve cases through written pleadings, stipulations and
17 joint motions.
 - 18 d. Directing that hearings amenable to being conducted by telephone or
19 videoteleconference (“VTC”), especially for cases involving detained aliens,
20 should be conducted through those mediums to the maximum extent possible.

21
22
23
24 *Id.*

25 54. EOIR is conducting hearings at the Tacoma Immigration Court via VTC. See
26 CDC Interim Guidance at p. 6, 9 (identify and implement lawful alternatives to in-person court
27 appearances, such as virtual court, as a social distancing measure). Starting the week of April
28

1 27, 2020, this is done either: 1) with a Tacoma Immigration Judge sitting separately in his/her
2 office and the detainee-respondent appearing via VTC from a separate courtroom within the
3 facility, or 2) an Immigration Judge from Sacramento or Los Angeles sitting in his/her remote
4 courtroom and the detainee-respondent appearing via VTC from a courtroom in Tacoma.¹⁰ ICE
5 attorneys also appear separately via VTC from either their office or from home. Private bar
6 attorneys have been provided the opportunity to appear telephonically.
7

8 55. Private bar or detainees who do not feel comfortable attending hearings or holding
9 hearings are permitted liberal use of motions for continuances, which ICE has not been opposing.
10

11 56. On April 15, 2020, EOIR confirmed to ICE that EOIR staff is cleaning all the
12 high contact surfaces of each of the three main courtrooms with sanitizing wipes approved by the
13 Acting Health Services Administrator at the NWIPC on a daily basis at 7:30 a.m. and 12:30 p.m.
14 It has also trained GEO bailiffs to follow the same protocol in each of the VTC courtrooms. On
15 May 4, 2020, EOIR distributed hand sanitizer in all courtrooms.¹¹
16

17 57. EOIR has agreed to accept digitally signed documents and has established a
18 manner by which both parties can file documents with the Tacoma Immigration Court by email.
19 OPLA Tacoma already accepts digital service of legal documents through ICE's online E-service
20 application.
21

22 58. ICE has also established a method by which private bar attorneys may contact
23 ICE attorneys to request reconsideration or stipulations to bond in particular cases and on a case
24 by case basis. As a result, ICE has agreed in certain cases to stipulate to bond thereby avoiding
25 the necessity of holding a bond hearing.
26

27
28 ¹⁰ This allows EOIR to schedule five Tacoma dockets at one time instead of the usual three, thereby completing more cases at a faster pace.

¹¹ Restocking of hand sanitizer in courtrooms had previously been delayed due to the national shortage of hand sanitizer.

1 59. Detainees who have appeals pending before the Board of Immigration Appeals or
2 Petitions for Review pending with the United States Court of Appeals no longer have hearings
3 before the Immigration Court except, in certain cases, such a detainee may be afforded a single
4 bond hearing.
5

6 Communication and Cooperation Between ERO, IHSC and GEO

7 60. As OIC, I am in regular communication with various members of GEO and IHSC
8 staff, including GEO's Facility Administrator and Assistant Facility Administrator as well as
9 IHSC's Acting Facility Health Services Administrator.
10

11 61. Weekly stakeholder meetings between various representatives of ERO, IHSC,
12 OPLA and GEO are a regular practice at the NWIPC. These meetings are conducted to keep all
13 NWIPC staff informed of developments concerning the functioning of the facility and to provide
14 an opportunity for all interested stakeholders to discuss any issues. At these meetings, IHSC also
15 provides updates regarding significant medical/mental health cases requiring special attention,
16 e.g. chronic care patients, detainees in the medical housing unit under mental health observation,
17 detainees who have been temporarily transferred to outside medical and/or mental health
18 facilities, and detainees advanced in age. This practice allows staff to make informed and timely
19 decisions regarding detainee care, including but not limited to, transfers, releases, and/or
20 specialized care. In the NWIPC's 2017 Compliance Inspection Report, ICE's Office of
21 Detention Oversight ("ODC") noted it had observed "excellent interdisciplinary communication
22 between medical, administrative staff, the AFOD [now OIC], legal counsel, the Contracting
23 Officer's Representative, and correctional staff" throughout its inspection. The ODC cited the
24 weekly stakeholder meeting and the interdisciplinary communication at the NWIPC as a "best
25 practice."
26
27
28

1 62. Beginning April 3, 2020, IHSC, ERO and GEO began holding weekly meetings
2 with IHSC's on-staff Infectious Disease Prevention Officer ("IPO Meetings") to facilitate and
3 ensure implementation of safety measures consistent with the Interim CDC Guidance on
4 COVID-19. These meetings are generally attended by ERO's OIC and Assistant OIC, IHSC's
5 Medical Clinic Director, IHSC's Acting Facility Health Services Administrator, IHSC's Nurse
6 Manager, and GEO's Facility Manager and Assistant Facility Manager. At these meetings, the
7 IPO discusses with the participants various recommendations from the CDC Interim Guidance.
8 The participants discuss practices in place at the NWIPC, whether changes are needed to be
9 compliant with the CDC recommendations, and if so, what practices can be implemented within
10 the NWIPC and which participant/s (ERO, IHSC and/or GEO) would be responsible for
11 implementing such a practice. At subsequent meetings, participants confirm exact steps that
12 have been taken since the last IPO meeting to implement the previously discussed safety
13 measures. The IPO keeps detailed meeting minutes, including dates of completion as each safety
14 measure is implemented.

15
16
17
18 Alternative Measures: Release from Detention

19 63. In March, ICE convened a working group of medical professionals, disease
20 control specialists, detention experts, and field operators to identify additional enhanced steps to
21 minimize the spread of COVID-19. See ICE Guidance on COVID-19, available at:
22 <https://www.ice.gov/coronavirus> (accessed April 15, 2020). ICE began evaluating its detained
23 population based upon the CDC's guidance for people who might be at higher risk for illness as
24 a result of COVID-19 to determine whether continued detention is appropriate. ICE initially
25 identified more than 550 detainees nationwide who were over the age of 60 or pregnant whose
26 cases were reviewed. *Id.*

1 64. On or about March 20, 2020, ERO Tacoma began conducting a discretionary
2 review of certain detainees' cases identified by IHSC, based on their medical records, as
3 detainees who meet the current Center for Disease Control's ("CDC") criteria as potentially at
4 higher risk due to COVID-19. As a result of this ongoing review process, ICE has already
5 released a number of detainees from custody at the NWIPC.

7 65. As of April 5, 2020, ICE implemented custody reassessment reviews expanding
8 on the CDC criteria list of individuals identified as potentially being at higher risk for serious
9 illness from COVID-19 nationwide. *See also* ERO PRR at 14. ICE identified the following
10 categories of cases that will be reviewed to re-assess custody:
11

- 12 b. Pregnant detainees or those who have given birth in the last two weeks
- 13 c. Detainees over 60 years of age
- 14 d. Detainees of any age having the following chronic illnesses which would make
15 them immune-compromised, including but not limited to: blood disorders, chronic
16 kidney disease, compromised immune systems (e.g. ongoing treatment such as
17 chemotherapy or radiation, received an organ or bone marrow transplant, taking
18 high doses of corticosteroids or other immunosuppressant medications), endocrine
19 disorders, metabolic disorders, heart disease, lung disease, neurological and
20 neurologic and neurodevelopmental disorders.

23 66. ICE further expanded custody reassessments to the subclasses and risk factors set
24 forth in the preliminary injunction issued in *Frailhat, et al. v. U.S. Immigration and Customs*
25 *Enforcement, et al.*, -- F.Supp.3d --, 2020 WL 1932570 (C.D.Cal. April 20, 2020).

27 67. ICE is also adjudicating independent requests for stays of removal and parole or
28 other forms of release that it is receiving from detainees and/or their legal representative.

1 68. As a result of this ongoing review process, ICE has already released a number of
2 detainees from custody at the NWIPC.

3 69. It should be noted that certain conditions of release may be limited or unavailable
4 due to the COVID-19 pandemic, the alien's health, and/or the geographic area where the alien
5 intends to live if released. To reduce the risk to participants due to the COVID-19 pandemic,
6 ICE has temporarily suspended in-person office reporting visits and in-home visits, two common
7 alternatives to detention. See COVID-19 Guidance, available at:
8 <https://www.ice.gov/coronavirus> (accessed April 28, 2020). In addition, GPS ankle-monitoring
9 may be limited in certain geographic areas and, in some cases may not be recommended based
10 on the alien's health conditions.
11

12
13 Named Class Member Petitioners

14 70. ICE has conducted a preliminary review of the case histories of the named class
15 member Petitioners and provides the following information for context.
16

17 71. Petitioner Castaneda-Juarez is a 36-year old native and citizen of Mexico with
18 two prior removals from the United States on November 18, 2009 and June 27, 2011. Petitioner
19 reentered the United States without inspection at an unknown time and place.
20

21 72. On November 22, 2016, Petitioner Castaneda-Juarez was encountered by
22 immigration officers after a suspected drug transaction in a Portland, Oregon Home Depot
23 parking lot but was released later the same day as act of prosecutorial discretion at the request of
24 the local Special Investigations Unit.
25

26 73. Petitioner Castaneda-Juarez was apprehended in vehicle stop by ICE officers on
27 March 10, 2020. During the stop, Petitioner Castaneda-Juarez ignored the orders of
28 apprehending officers, who clearly identified themselves as law enforcement officers and were

1 wearing tactical vests marked both "ICE" and "Police". Petitioner Castaneda-Juarez refused
2 repeated commands to roll down the window of his vehicle and to put the vehicle in park and
3 turn it off. Once in custody, ICE served Petitioner Castaneda-Juarez with a Notice of
4 Intent/Decision to Reinstate Prior Order (Form I-871) pursuant to 8 U.S.C. § 1231(a)(5) and
5 transferred him to the NWIPC the same day.
6

7 74. While in custody, Petitioner Castaneda-Juarez claimed fear of return to Mexico.
8 Following a reasonable fear interview, he was placed in withholding only proceedings pursuant
9 to the filing of an I-863, dated March 27, 2020. At master calendar hearing on April 29, 2020,
10 Petitioner's counsel declined an offered May 5, 2020, individual hearing date and a date at the
11 end of May, requesting at least six weeks to prepare his case. The Immigration Judge
12 subsequently reset Petitioner's case to a master calendar hearing on June 2, 2020, and instructed
13 Petitioner's counsel to reassess whether she was able to adequately handle Petitioner's case. The
14 same day, Petitioner filed a Motion to Reopen his prior 2009 removal proceedings. ICE has
15 opposed that motion. A decision on the motion is still pending. Petitioner is not currently
16 statutorily eligible for a bond hearing because he is being held under 8 U.S.C. § 1231(a)(6).
17 However, under current case law, he will be eligible for a bond hearing after he has been
18 detained 180-days. *See Flores Tejada v. Godfrey*, 954 F.3d 1245 (9th Cir. 2020).
19
20
21

22 75. Petitioner Castaneda Juarez is one of the detainees offered special accommodation
23 at the NWIPC due to his identification by IHSC as having an underlying condition that places
24 him at higher risk for serious illness due to COVID-19. *See* par. 36. After review of his medical
25 records, IHSC recommended that Petitioner Castaneda Juarez be moved to a bunk with
26 additional empty bunks surrounding his to provide extra distance. On April 9, 2020, GEO's
27 Assistant Facility Administrator discussed this proposed accommodation with Petitioner
28

1 Castaneda Juarez, who agreed to the move. On April 10, 2020, Castaneda Juarez was reassigned
2 bunks within the same housing unit. Of the 10 bunks in that area, only three are occupied.
3 Those three detainees are spread out among the bunks to the greatest extent possible. Of the 90
4 beds in Castaneda Juarez's housing unit, 34 are currently occupied, which places the housing
5 unit at 37.8% capacity.¹²
6

7 76. Petitioner Favela-Avendano is a 46-year old native and citizen of Mexico.
8 Petitioner was convicted in 1993 for unlawful entry under 8 U.S.C. § 1325. On January 13,
9 1994, he was granted voluntary departure in lieu of deportation by an Immigration Judge. In
10 2007, Petitioner Favela-Avendano was enjoined under an Order of Protection by his ex-partner.
11 On January 22, 2014, Petitioner Favela-Avendano was convicted for Driving Under the
12 Influence ("DUI"). Petitioner was arrested for DUIs again on July 24, 2019 and February 13,
13 2020. He was taken into ICE custody on March 13, 2020 and transferred to the NWIPC where
14 he was served with a Notice to Appear, charging him as inadmissible pursuant 8 U.S.C. §
15 1182(a)(6)(A)(i). Petitioner is being held under 8 U.S.C. § 1226(a) and is statutorily eligible for
16 a bond hearing. However, it does not appear that his counsel has requested one.
17
18

19 77. Petitioner Favela-Avendano's housing unit has 90 beds. Of those, 49 are
20 occupied, placing the housing unit at 57.8% capacity. In the area where he sleeps are 10 bunks,
21 five of which are occupied – i.e. only the bottom bunks are occupied.
22

23 78. Petitioner Khan is a 47-year old native and citizen of Pakistan. His status was
24 adjusted to that of lawful permanent resident in 2006. On November 13, 2018, Petitioner Khan
25 was enjoined under a protection order issued by Snohomish County South District Court at
26
27

28 ¹² Petitioner Castaneda-Juarez was in the medical segregation in the Medical Housing Unit this week when he was tested for COVID-19. However, his test results returned negative results this morning and ICE expects him to return to his regular housing unit today.

1 | Snohomish County, Washington. On April 4, 2019, Petitioner Khan was convicted in
2 | Snohomish County Superior Court for the offense of felony Stalking-Domestic Violence in
3 | violation of R.C.W. §§ 9A.46.110(1), (5)(b), 9A.36.041(4). He was sentenced to 12 months
4 | imprisonment. On April 24, 2019, Petitioner Khan was convicted of Violation of Court Order-
5 | Domestic Violence in violation of R.C.W. §§ 26.50.110(1), 9A.36.041(4) and sentenced to 364
6 | days, which were suspended. He was taken into ICE custody on October 7, 2019 and served
7 | with a Notice to Appear, charging him with removability pursuant to 8 U.S.C § 1227(a)(2)(E)(ii).
8 |
9 | On October 18, 2019, the Snohomish County Superior Court issued a restraining order against
10 | Petitioner Khan, finding that he represents a credible threat to the physical safety of his ex-wife
11 | and children. The order is valid until October 18, 2024. At the conclusion of a bond hearing on
12 | October 24, 2019, the Immigration Judge found Petitioner to be a danger and a flight risk and
13 | ordered him held with no bond. Petitioner, who was represented by counsel, reserved appeal of
14 | that decision but never perfected an appeal. On January 9, 2020, an Immigration Judge granted
15 | Petitioner cancellation of removal for certain permanent residents under 8 U.S.C. § 1229b(a).
16 | DHS has appealed that decision, arguing that Petitioner Khan failed to demonstrate he merits a
17 | favorable exercise of discretion where the evidentiary record showed he persistently stalked his
18 | ex-wife from November 2018 to the end of January 2019, resulting in over 100 violations of an
19 | existing protection order. The appeal remains pending before the Board of Immigration Appeals.
20 |
21 | On February 18, 2020, an Immigration Judge denied Petitioner's motion for a new bond hearing,
22 | finding he had not established a material change in circumstances as required by regulation.
23 | Petitioner did not appeal that decision. As long as Petitioner's appeal is pending before the
24 | Board, he continues to be detained under 8 U.S.C. § 1226(a).
25 |
26 |
27 |
28 |

1 79. Petitioner Khan's housing unit has 90 beds, only 34 of which are occupied. The
2 housing unit is at 37.8% capacity.
3
4 Petitioner J.A.M. is a 57-year old native and citizen of El Salvador, who applied for admission to
5 the United States on December 12, 2017 at the San Ysidro, California Port of Entry claiming fear
6 of return to his home country. He was transferred to the NWIPC on December 26, 2017.
7 Following a credible fear interview, he was placed in removal proceedings pursuant to the
8 issuance of a Notice to Appear charging him with inadmissibility under 8 U.S.C. §
9 1182(a)(7)(A)(i)(I). On April 2, 2018, an Immigration Judge denied his applications for relief
10 and ordered him removed. Petitioner J.A.M. filed a timely appeal with the Board of Immigration
11 Appeals. At a scheduled bond hearing on July 26, 2020, the Immigration Judge found no
12 jurisdiction for bond because Petitioner J.A.M. is an arriving alien detained under 8 U.S.C. §
13 1225(b)(1)(B)(ii). No appeal was filed on that decision. On September 25, 2018, the Board of
14 Immigration Appeals dismissed Petitioner J.A.M.'s appeal. On October 16, 2018, Petitioner
15 J.A.M. filed a Petition for Review and a Motion for Stay of Removal with the United States
16 Court of Appeals for the Ninth Circuit. An automatic temporary stay of removal immediately
17 went into effect. On March 21, 2019, the Motion for Stay of Removal was granted. Oral
18 arguments on the Petition for Review were heard on May 6, 2020. On May 11, 2020, ICE
19 completed custody reassessment review of Petitioner J.A.M.'s case in light of IHSC's
20 identification that he is at higher risk of serious illness due to COVID-19 and exercised its
21 discretion to release him on an Order of Supervision. He was released from ICE custody the
22 same day.
23
24
25
26

27 //

28 //

1 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and
2 correct to the best of my knowledge and belief.
3

4
5 Executed this 15th day of May, 2020,


6
7 
8 _____
9 Drew Bostock
10 Officer in Charge
11 U.S. Department of Homeland Security
12 U.S. Immigration and Customs Enforcement
13 Tacoma, WA
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EXHIBIT A

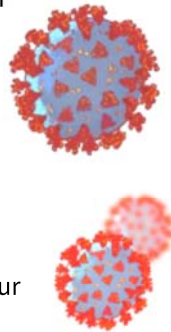
COVID-19

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VIRUS INFORMATION FOR DETAINED INDIVIDUALS

ICE is monitoring COVID-19 and continues to follow the Centers for Disease Control and Prevention (CDC) guidelines, including:

- Screening all new detainees who arrive at facilities for symptoms and risk of exposure to COVID-19.
- Housing separately and monitoring detainees with symptoms for a period of 14 days.
- ICE personnel and facility staff who have been exposed to the virus are instructed to report exposure and to practice self-quarantine protocols per CDC guidance.
- ICE will continue to share information on COVID-19 cases in your facility and post it on the ICE website as it becomes available.



WHAT CAN YOU DO?

If you feel ill or have reason to believe you have been exposed to someone with COVID-19, you are encouraged to submit a medical request form as soon as possible.

WASH HANDS

If additional hygiene supplies are needed, complete a Detainee Request Form.

LÁVESE LAS MANOS

Si se necesitan suministros de higiene adicionales, rellene un Formulario de Solicitud de Detenido.

SOCIAL DISTANCING

Visitation with family members has been suspended temporarily at all detention facilities to mitigate the potential transmission of COVID-19, however ICE is taking steps to facilitate communication with families via extended access to telephones and tablets, where available. You can submit a Detainee Request Form for extended access to telephones/tablets.

DISTANCIAMIENTO SOCIAL

Las visitas con los miembros de la familia se han suspendido temporalmente en todos los centros de detención para mitigar la posible transmisión de COVID-19, sin embargo, el ICE está tomando medidas para facilitar la comunicación con las familias a través de ampliación de acceso a teléfonos y tabletas, cuando estén disponibles. Puede enviar un Formulario de Solicitud de Detenido para ampliación de acceso a teléfonos/tabletas.

QUESTIONS ABOUT ATTORNEY VISITATION?

Non-contact legal visitation (e.g. Skype or teleconference) will be encouraged as a first option to limit the facility's exposure to COVID-19. If an in-person legal visit is required, all legal visitors will be required to provide and wear personal protective equipment (PPE) (e.g., gloves, N-95 masks, and eye protection) and undergo the same medical screening procedures as facility staff members. If you need to speak with your attorney, you can submit a Detainee Request Form.

¿PREGUNTAS SOBRE LA VISITA DEL ABOGADO?

Se fomentarán las visitas de ámbito legal sin contacto (por ejemplo, Skype o teleconferencia) como primera opción para limitar la exposición de la instalación al COVID-19. Si se requiere una visita de ámbito legal en persona, todos los visitantes jurídicos deberán proporcionar y usar equipo de protección personal (EPP) (por ejemplo, guantes, máscaras N-95 y protección ocular) y someterse a los mismos procedimientos de detección médica que los miembros del personal de la instalación. Si necesita hablar con su abogado, puede enviar un Formulario de Solicitud de Detenido.

INFORMACIÓN DE VIRUS PARA INDIVIDUOS DETENIDOS

ICE está monitoreando el COVID-19 y continúa siguiendo las pautas de los Centros para el Control y la Prevención de Enfermedades (CDC, por sus siglas en inglés), incluyendo:

- Exámenes de detección a todos los nuevos detenidos que llegan a las instalaciones con síntomas y riesgo de exposición al COVID-19.
- Alojamiento por separado y monitoreo de detenidos con síntomas por un período de 14 días.
- Instrucción al personal del ICE y al personal de las instalaciones que han estado expuestos al virus para que informen de la exposición y practiquen los protocolos de cuarentena según las indicaciones de los CDC.
- ICE continuará compartiendo información sobre los casos de COVID-19 en sus instalaciones y la publicará en el sitio web de ICE a medida que esté disponible.

¿QUÉ PUEDE HACER?

Si se siente enfermo o tiene razones para creer que ha estado expuesto a alguien con el COVID-19, se le anima a enviar un formulario de solicitud médica tan pronto como sea posible.

