

Honorable James L. Robart  
Honorable Michelle L. Peterson

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

JOSUE CASTANEDA JUAREZ, *et al.*,

Petitioners-Plaintiffs,

v.

NATHALIE ASHER, *et al.*

Respondents-Defendants,

NO. C20-0700 JLR-MLP

NOTICE OF SUPPLEMENTAL  
AUTHORITY

Pursuant to Local Rule 7(n), Federal Respondents provide the Court with notice of supplemental authority issued after Federal Respondents filed their response to Petitioners' motion for a temporary restraining order. Dkt. No. 62.

Federal Respondents attach a letter sent on May 19, 2020, by Immigration and Customs Enforcement Acting Field Office Director Michael A. Melendez to Senator Patty Murray, *see* Ex. A, responding to the Senator's May 12, 2020 letter, which Petitioners previously filed with the Court. Dkt. No. 56.

1 DATED this 20th day of May, 2020.

2  
3 Respectfully submitted,

4 BRIAN T. MORAN  
5 United States Attorney

6 /s/Michelle R. Lambert  
7 MICHELLE R. LAMBERT, NYS #4666657  
8 Assistant United States Attorney  
9 United States Attorney's Office  
10 1201 Pacific Avenue, Suite 700  
11 Tacoma, WA 98402  
12 Phone: 253-428-3824  
13 Fax: 253-428-3826  
14 Email: [michelle.lambert@usdoj.gov](mailto:michelle.lambert@usdoj.gov)

# Exhibit A

U.S. Department of Homeland Security  
12500 Tukwila International Blvd.  
Seattle, Washington 98168



U.S. Immigration  
and Customs  
Enforcement

May 19, 2020

The Honorable Patty Murray  
United States Senate  
154 Russell Senate Office Building  
Washington, DC 20510

Dear Senator Murray:

Thank you for your May 12, 2020, letter regarding the health and safety of detainees at the Northwest ICE Processing Center (NWIPC) in Tacoma, Washington.

U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) oversees the civil immigration detention of one of the most highly diverse and fluid populations of any detention or correctional system in the world. As such, ICE takes very seriously the health, safety and welfare of those in its custody and is taking the necessary precautions to protect all detainees from coronavirus disease 2019 (COVID-19). To date, there continue to be no confirmed cases of COVID-19 originating at the NWIPC. As you noted in your letter, one detainee who is asymptomatic tested positive for COVID-19 27 days prior to being transferred to the NWIPC from another ICE facility. This detainee has been housed separately since arriving at the NWIPC and will remain so until results no longer return positive for COVID-19. On May 15, 2020, the Oregon Department of Corrections released a COVID-19 positive detainee into ICE custody. ICE transported the detainee directly from Oregon to the NWIPC where he is being housed in medical isolation.

In order to further safeguard those in our care, an additional 15 detainees have been tested and all returned negative results. Please note that ICE immediately isolates detainees who present fever and/or symptoms of respiratory illness. Isolation protocols include housing the detainee in a private medical housing room, which may be an airborne infection isolation room equipped with negative pressure, if available, and implementation of transmission-based precautions. If a single occupancy medical housing unit room is unavailable, placement in other areas of the facility is utilized to house the detainee separately from the general detained population.

ICE continues to work closely with medical experts and disease control specialists to identify and implement important steps to safeguard all detainees, staff and contractors. Beginning January 22, 2020, ICE developed and implemented comprehensive protocols in accordance with CDC guidance and will continue to update such protocols as information about the virus



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evolves in order to mitigate the spread of COVID-19 through the duration of the pandemic.<sup>1</sup> On April 10, 2020, ICE ERO issued the COVID-19 Pandemic Response Requirements (PRR)<sup>2</sup>, which sets forth expectations and assists ICE detention facility operators to sustain detention operations, while mitigating risk to the safety and well-being of detainees, staff, contractors, visitors and stakeholders due to COVID-19. The ICE ERO PRR was developed in consultation with the CDC and ICE medical and operational personnel continue to monitor CDC guidance daily to update applicable policies and procedures to remain consistent with CDC guidelines. In addition, the PRR builds upon previously issued guidance and sets forth specific mandatory requirements expected to be adopted by all detention facilities housing ICE detainees, as well as best practices for such facilities, to ensure that detainees are appropriately housed and that available mitigation measures are implemented during this unprecedented public health crisis.

The ERO Seattle Field Office is continuously assessing and considering for release individuals deemed to be at greater risk<sup>3</sup> of exposure, consistent with CDC guidelines. On April 4, 2020, ICE issued guidance to its field components to review the approximately 34,000 detained cases nationwide for those that fell within CDC guidelines for higher risk of severe illness as a result of COVID-19. As of April 25, 2020, ICE's review of this group resulted in the release of more than 900 aliens after evaluating medical issues, immigration histories, criminal records, potential threat posed to the public, flight risk and national security concerns. To ensure the health, safety, and welfare of those already detained in ICE custody, ICE continues to evaluate aliens who are initially brought into custody based on medical issues, immigration histories, criminal records, potential threat posed to the public, flight risk, and national security concerns. After a full assessment, ICE will then make a custody determination. When custody redeterminations are made, ICE utilizes appropriate release conditions to mitigate the risk of flight, including enrollment in an Alternatives to Detention program, based on the individual circumstances.

Your letter mentions that ICE initially identified 128 detainees for potential release based on their higher risk for severe illness as a result of COVID-19. Please note that ICE identified 128 medical records that needed additional screening. That screening resulted in 16 detainees who were eventually deemed higher risk and released. Since then, the number of medical records in need of a deeper review by ICE Health Service Corps (IHSC) medical professionals has increased to 259. Of the 259 cases, 66 detainees are no longer in ICE custody, including 36 who were released due to higher risk for severe illness from COVID-19. This thorough screening process will continue with both the current detainee population, as well as with new intakes.

During the April 24, 2020, conference call, Congressional staffers inquired about ICE's goal of lowering its detainee population in ICE facilities to 70 percent of capacity to ensure that detainees have adequate space to maintain social distancing. ICE ERO convened a working group of medical professionals, disease control specialists, detention experts and field operators to identify steps to minimize the spread of COVID-19. As a result of the working

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<sup>1</sup> The World Health Organization characterized the COVID-19 outbreak as a pandemic on March 11, 2020.

<sup>2</sup> U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, COVID-19 Pandemic Response Requirements (Apr. 10, 2020), <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>

<sup>3</sup> <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>

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group, ICE has recommended that all facilities make efforts to reduce the population at detention facilities to 75 percent of capacity<sup>4</sup>, or less, to allow for increased social distancing opportunities.

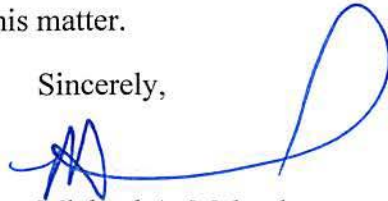
As explained in the April 24th conference call, the NWIPC was at 45 percent capacity, well below the 75 percent goal. Currently, capacity at NWIPC stands at 41 percent. Please note, ICE did not intend to imply that this level of occupancy was “likely insufficient” to meet CDC guidelines for social distancing. Rather, ICE acknowledged that despite this increased living space for detainees, ICE cannot prevent detainees from violating the recommended 6-foot distancing. However, ICE and GEO Group personnel work diligently to educate detainees and enforce social distancing guidelines.

As ICE personnel in the field continue to fulfill the homeland security mission during these challenging times, while managing the immediate frontline response to the COVID-19 epidemic, our staff are not readily available for a weekly call. However, since this is a rapidly evolving situation, ICE regularly updates information regarding ICE’s response to COVID-19 on its public website. You may access this information at [www.ice.gov/coronavirus](http://www.ice.gov/coronavirus). ICE’s public website is updated several times a day.

ICE is committed to the safety, health, and wellbeing of those in its custody. Should you have additional questions or concerns, please contact Seattle’s Assistant Field Office Director for Congressional Relations at [Seattle.Outreach@ice.dhs.gov](mailto:Seattle.Outreach@ice.dhs.gov) or 206-835-0075.

Thank you for your letter and interest in this matter.

Sincerely,



Michael A. Melendez  
Acting Field Office Director

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<sup>4</sup> ICE ERO is asking the local jails to try to achieve 75 percent of population to capacity. However, ICE ERO has set a target of 70 percent at its *dedicated* facilities.