

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

MARIA ALEJANDRA CELIMEN SAVINO,  
JULIO CESAR MEDEIROS NEVES, and all  
those similarly situated,

Petitioners-Plaintiffs,

v.

STEVEN J. SOUZA,

Respondent-Defendant.

Case No. 1:20-cv-10617 WGY

**PLAINTIFFS' SUPPLEMENTAL BRIEFING IN SUPPORT OF MOTION FOR  
PRELIMINARY INJUNCTION**

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## INTRODUCTION

In the six weeks since this case was filed, much has changed. Tens of thousands of residents of the Commonwealth have been diagnosed with COVID-19, and thousands have died. The grim upward march has now begun at the Bristol County House of Correction (BCHOC) as well: one, then two, now eleven staff infected in BCHOC facilities and just this week the first confirmed case among the detainee population. So too, scientific knowledge about the virus has evolved on an almost daily basis, with more symptoms being added to the Centers for Disease Control and Prevention (CDC) list, and growing evidence of COVID-19's long-term effects.

Another notable change since this case was filed: upwards of 40 people who were previously being held by Defendants in the densely-packed confines of BCHOC are now safely quarantining at home due to this Court's orders – still within the control of ICE, many with electronic monitoring, but no longer in BCHOC's desperately unsafe congregate environment.

But while much has changed, much has also stayed the same. The virus remains highly contagious and potentially lethal, and the CDC therefore continues to advise that social distancing must be the "cornerstone" of any effective public health response. Yet that critical preventative measure continues to be impossible at BCHOC, with contact among detainees and staff throughout the day "unavoidable," in the words of Superintendent Souza. Class members are still sleeping in congregate cells or rooms, often right next to or on top of one another. Communal bathrooms are still shared by up to 54 individuals, with no regular cleaning, much less sanitation between each use. And class members still eat meals prepared in a congregate kitchen facility by approximately 40 individuals from another unit.

Defendants' response to the challenges posed by the pandemic also remains largely unchanged. Most notably, Defendants' pre-litigation failure to look carefully at how to reduce

the detainee population to decrease the risk of infection has not been rectified – and indeed has only grown more glaring as the virus now threatens to take hold in the facility. Even after this Court made clear on April 8, 2020 that “the question is whether the government is taking reasonable steps to identify those Detainees who may be released in order to protect everyone from the impending threat of mass contagion,” Mem. & Order, ECF 64 at 23, Defendants’ stance has remained unchanged: no one needs to be released, and no one should have been released. Further, and most importantly to the point of this motion: Defendants are fully prepared to go back to the pre-lawsuit density levels if only this Court will allow it.

The Court should not do so. The evidence that Plaintiffs have amassed in the record – from numerous class members, doctors, and public health experts, and from the admissions of Defendants themselves – amply justifies the entry of a Preliminary Injunction to further reduce the density level at BCHOC and ensure the health and well-being of those remaining inside. Plaintiffs have demonstrated a high likelihood of success on the merits: that their continued detention would violate the Fifth Amendment, which entitles immigration detainees to “reasonable safety.” The possibility of irreparable harm could hardly be more clear than it is here, and the balance of hardships tips decidedly in Plaintiffs’ favor. Finally, the public interest would be well-served by an injunction. This virus knows no walls, meaning that flattening the curve for class members benefits the community at large.

Plaintiffs therefore respectfully request that a Preliminary Injunction be entered, to reduce BCHOC’s population density to a level that provides class members with the reasonable safety that the Constitution demands. And for those individuals not released, this Court should require Defendants to comply with the same sort of minimal public health standards ordered by other courts during this once-in-a-century public health crisis.

## FACTUAL BACKGROUND

### I. COVID-19, CDC Guidance, And The Dangers Of Congregate Living

The Court is familiar with COVID-19, as well as with public health guidance on how to combat and control the disease. Accordingly, Plaintiffs will not repeat that background in depth here, other than to highlight the following:<sup>1</sup>

*The virus is highly contagious, spread by person-to-person contact.* COVID-19 is easily spread through expelled droplets when people are in close proximity to one another. Individuals who contract the virus may spread it even if they have not yet shown symptoms. Some individuals never exhibit symptoms at all but may nonetheless still spread the disease. *See* Gonsalves Decl. at ¶ 10. The CDC has therefore emphasized that social distancing is the “cornerstone” of an effective public health response. Individuals should maintain a distance of at least 6 feet from each other to avoid spreading the virus. More recent research shows that the virus may be spread across even longer distances, making 6 feet the *minimum* effective distance.

*The virus also can be spread through shared surfaces.* The virus also lives for hours on surfaces and may be spread by people touching shared surfaces. *See id.* at ¶ 15. Accordingly, the CDC and other experts have warned that it is critical to avoid contact with shared surfaces.

*In over 15% of cases, the virus causes severe illness or death.* The virus causes severe illness or death in over 15% of those infected. *See id.*, ¶ 3. For those who recover, the long-term effects of the virus are as yet unclear but thought to be significant. Singer Decl. ¶ 12.

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<sup>1</sup> Evidence pertaining to these background issues can be found throughout the record, including at Mem. in Support of Mot. for TRO, ECF 12, at 8-13; Decl. of Allen S. Keller, M.D., ECF 12-1; Decl. of Gregg Gonsalves, ECF 12-2; Reply Decl. of Gregg Gonsalves, ECF 33-5; Briefing on the Individual Appls. for Bail, Tuesday, April 7, 2020, ECF 52, at 3-5; Suppl. Decl. of Dr. Matthew Gartland, ECF 68-1; Decl. of Frederick L. Altice, ECF 68-2; Decl. of Mary T. Bassett, MD, MPH, ECF 68-3; Suppl. Decl. of Allen S. Keller, M.D., ECF 91-4; Decl. of Dr. Elizabeth Singer (MD, MPH, FACEP), ECF 91-5; Second Suppl. Decl. of Dr. Matthew Gartland, ECF 91-7. Plaintiffs rely on all of the evidence in the record to date to support their Preliminary Injunction Motion.

*Certain categories of people are at particularly high-risk, but the virus can harm or kill anyone.* The CDC has advised that certain people with pre-existing medical conditions are at higher risk for severe illness if they contract COVID-19. However, scientists are racing to learn more about the disease, and as more becomes known each day about how the disease is spread, who may be vulnerable, and the long-term effects of infection. *See* Keller Decl. ¶ 27; CDC, *Coronavirus Disease (COVID-19): Situation Briefing* (Apr. 19, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html>. In any event, it is now well known that the virus can strike anyone down. *See* Gonsalves Decl. ¶ 5.

*Congregate living settings are especially vulnerable.* Given the importance of social distancing, congregate living settings – cruise ships, nursing homes, detention facilities – have been among the hardest hit. In the Cook County Jail in Chicago, for instance, two inmates tested positive for COVID-19 in late March; within 2 weeks, more than 350 people were infected; and by now six inmates and a guard have died. At the Terminal Island prison in San Pedro, California, six inmates have died and over 60% of the population has tested positive.<sup>2</sup>

*There is a long road ahead.* The pandemic continues to evolve, and scientists predict it will be with us for months, if not years, and expect additional waves over time.<sup>3</sup>

## **II. Class Members Are Not Currently Able To Socially Distance At BCHOC**

It is not currently possible for class members to engage in social distancing at BCHOC. In all of the daily necessities of life – sleeping, using the bathroom, accessing medical care, eating meals, and other activities – BCHOC is much too densely populated to allow individuals

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<sup>2</sup> *See See Chicago's Jail Is Top U.S. Hot Spot As Virus Spreads Behind Bars*, NEW YORK TIMES (April 8, 2020) available at <https://www.nytimes.com/2020/04/08/us/coronavirus-cook-county-jail-chicago.html>; *6<sup>th</sup> Terminal Island Prisoner Dies of COVID-19*, LOS ANGELES TIMES (May 5, 2020) available at <https://www.latimes.com/california/story/2020-05-05/coronavirus-covid-19-deaths-terminal-island-prison-california-fauci>.

<sup>3</sup> *See, e.g.,* Chloe Taylor, *Coronavirus Outbreak Likely to Go On for Two Years, Scientists Predict*, CNBC (May 1, 2020), <https://www.cnbc.com/2020/05/01/coronavirus-pandemic-likely-to-last-for-two-years-scientists-predict.html>.



to stay 6 feet away from each other. The tight spaces and congregate living that characterize BCHOC are in fact the antithesis of the CDC's social distancing recommendations.

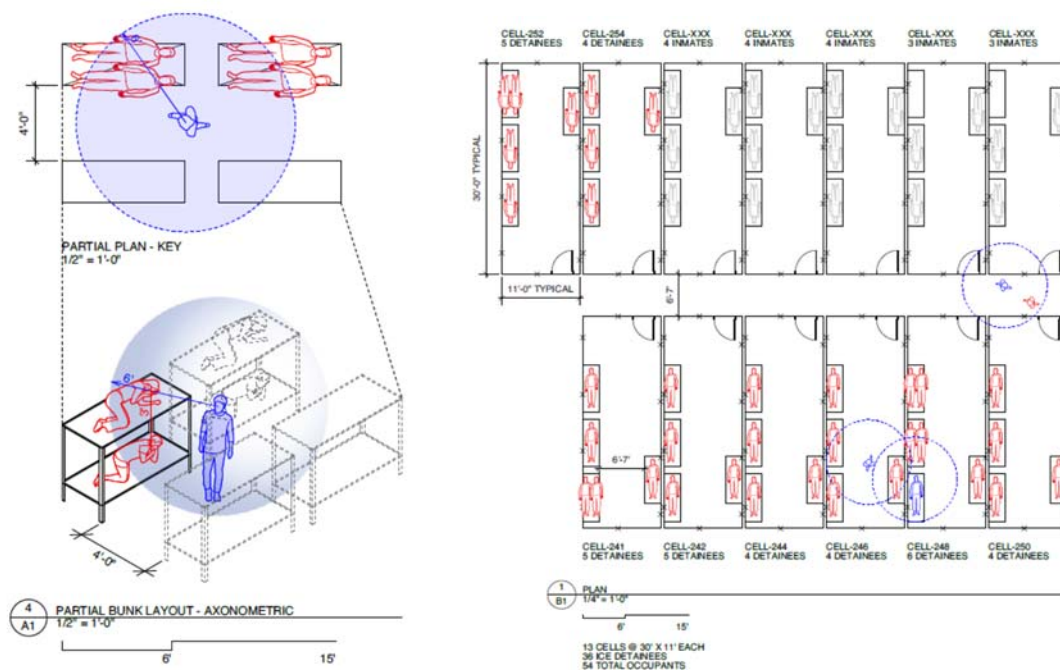
As set forth in previous briefings, class members are held in four different units. *See, e.g.*, ECF 83-1 (Apr. 14, 2020 Souza Declaration). Units A and B house only male ICE detainees; each of these units consists of an open room with rows of bunk beds. *Id.* at 5-7. As of late last week, Unit A held approximately 11 individuals, and Unit B held approximately 26 individuals.<sup>4</sup> *See* Souza Dep. at 168, 182-83. The EB Unit is the women's unit and includes both ICE detainees (currently 5) and women being held in criminal custody pre-trial (currently believed to be 5-6). *See* Souza Dep. at 188. 2 East is a men's unit that houses both ICE detainees (36) and criminal pre-trial detainees (18). *See* Souza Decl. ¶ 4; Souza Dep. at 194.

Congregate sleeping is the norm at BCHOC, with only the EB unit detainees in single cells. In 2 East, for example, 4-5 detainees sleep in a single cell that measures only 11 feet wide and 30 feet long. *See* Souza Dep. at 195; Souza Decl. ¶ 4. With bunkbeds against both walls of each cell and lined up end-to-end, class members are packed in, and in some cases literally right on top of each other. *See* Souza Dep. at 197; Souza Decl. ¶ 4 (individuals continue to share bunkbeds in 2 East). An aisle of only 6-7 feet runs between the bunk beds, meaning that it is impossible for a detainee to get up and walk out of his cell without coming within feet if not inches of his cellmates. *See id.* To illustrate the spatial limitations of BCHOC, Plaintiffs submitted architectural diagrams completed to scale, based on the information provided by

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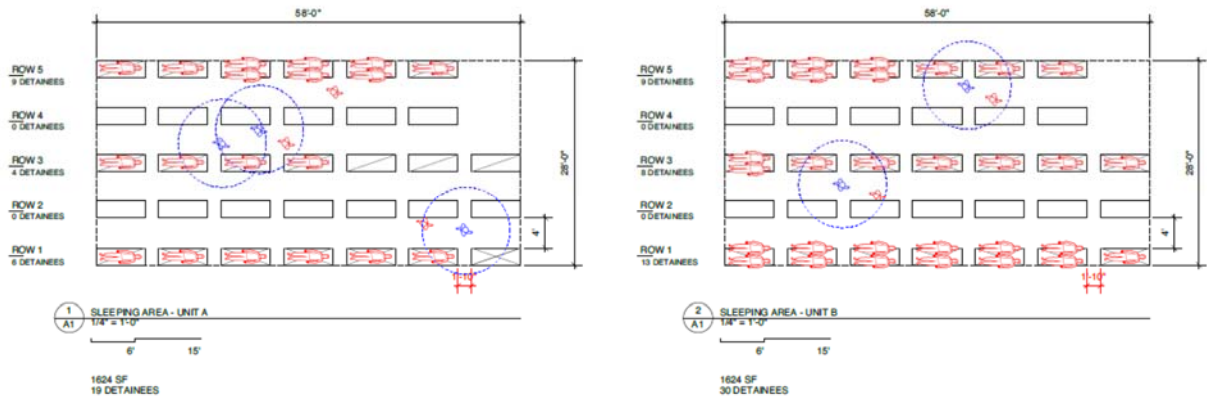
<sup>4</sup> As previously raised with the Court, all detainees in Unit B were moved out of the unit on Friday, May 1, 2020. They are currently housed in individual segregation units but are expected to move back to Unit B at some point in the future. As raised by the Court's questions as posed in ECF 144, there are significant differences between quarantine or medical isolation and administrative segregation or "solitary confinement," the latter of which is neither an appropriate nor effective public health and medical response to the current pandemic. *See* Brie Williams, MD, MS & David Cloud JD, MPH, *The Ethical Use of Medical Isolation – Not Solitary Confinement – to Reduce COVID-19 Transmission in Correctional Settings*, Amend at University of California, San Francisco (April 9, 2020). Plaintiffs will be prepared to discuss these issues more fully with the Court at the May 7, 2020 hearing.

Superintendent Souza.<sup>5</sup> One diagram shows sleeping detainees in red, and a standing detainee in blue. The blue shaded area or circle marks a 6-foot radius around the standing person:

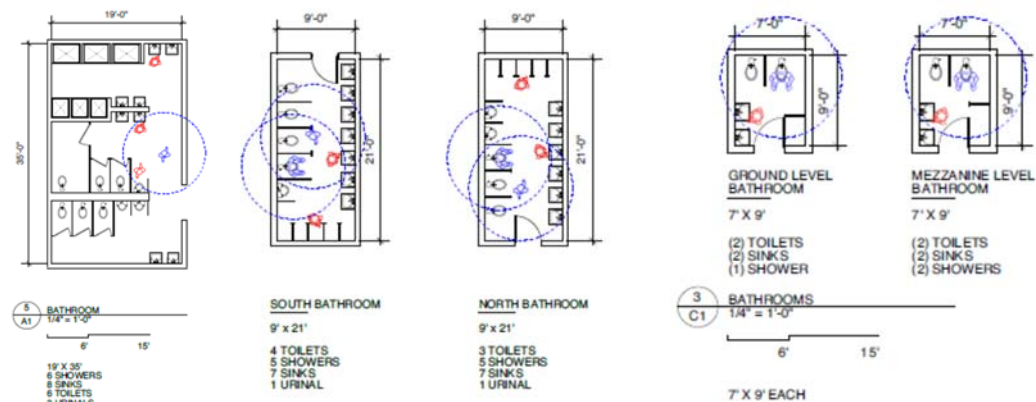


Similarly, in Units A and B, there continue to be rows of dormitory-style bunk beds. *See* Souza Dep. at 184-85; Souza Decl. ¶¶ 11, 14. Following court-ordered releases, Defendants have attempted to move class members around within those beds to create more space, but the density does not allow adequate spacing. Numerous class members are still sleeping in rows of beds right next to each other. *See* Fall Decl. ¶ 5. When people inevitably pass through the aisles, individuals are in even closer proximity to each other. *See* ECF 91-6, Exhs B, C.

<sup>5</sup> *See* ECF 91-6, Declaration of Jen Shin and Accompanying Exhibits. Ms. Shin based the renderings on the dimensions specified in Superintendent Souza’s Declaration and corroborated the actual physical layout where possible. *See id.*



Bathrooms are similarly cramped. In the women’s unit (EB), 9 women share tiny bathrooms that measure only 7 feet by 9 feet. Souza Decl. ¶ 3. Into these tight spaces are crammed two toilets, two sinks, and a shower. *Id.* Similarly, tight quarters exist in the men’s units, with 2 East bathrooms shared by up to 54 individuals. Souza Decl. ¶ 4. These bathrooms – which are only 9 feet wide and 21 feet in length – contain four toilets, five showers, seven sinks, and a urinal. Souza Decl. ¶ 7. The bathrooms in Units A and B similarly each have six toilets, three urinals, eight sinks, and six showers – frequently in use at the same time. Souza Decl. ¶ 12; Souza Dep. at 209. In each bathroom, the sinks, toilets, and showers are lined up closely to one another. *See also* ECF 91-6, Exhs B, C, D:



The communal areas used during other times such as at mealtime and during recreation likewise allow no room for social distancing. De Jesus Concepcion Decl. ¶¶ 6, 7; Wafula Decl. ¶

14. As Superintendent Souza candidly conceded, coming within six feet of others during the day at BCHOC is “unavoidable.” *See* Souza Dep. at 68.

Moreover, people are constantly moving in and out of the facilities. While Defendants stopped detainees from having even non-contact visits because those “can’t currently happen safely,” Souza Dep. at 306, correctional officers, nurses, and other staff who work at BCHOC come and go with each shift, creating constant traffic in and out of the facility. A common medical unit serves ICE detainees as well as state inmates and pre-trial detainees. Floriano Dep. Tr. (Rough) at 16; 69. Many BCHOC staff, including the nurses and mental health workers, regularly come into close contact with both ICE detainees and inmates, *id.* at 19-20, 74., and some work second jobs at nursing homes or other correctional facilities, increasing the risk of cross-contamination even more. *Id.* at 71. Since this litigation began, eleven of these staff members, including a nurse and a mental health worker, have tested positive for the virus.<sup>6</sup>

Moreover, class members in 2 East and in the EB unit share their close quarters with an ever-changing population of non-ICE detainees. Souza Decl. ¶ 4. Individuals from state custody are also routinely transferred into the other units of immigration. *See, e.g.*, ECF 109.

With quarters this close, with staff moving in and out of the facility every day, and with a regular stream of new detainees moving into the space, it is simply not possible for class members to socially distance at BCHOC.

### **III. There Is A Lack Of Adequate Sanitation At BCHOC**

The dangers of congregate living at BCHOC do not just rest in the fact that close quarters make it impossible for class members to socially distance. The COVID-19 virus can live for hours on surfaces, making the many shared surfaces at BCHOC another significant risk factor.

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<sup>6</sup> *See* Hodgson Dep. Tr. 127:10-16; *see also* Bristol County Sheriff’s Office Twitter Account (last accessed May 5, 2020) <https://twitter.com/BristolSheriff/status/1257767668561489921>.

As noted above, the bathrooms in particular are shared by scores of individuals and are in use throughout the day and night. *See, e.g.*, Declaration of Altagracia Baez Guerrero ¶ 5; Declaration of Amiry Carlos Dias ¶ 5. No type of seat covering or disinfecting wipe is provided for detainees to even attempt to clean any of these bathroom surfaces before use. *See* Fall Decl. ¶ 3. Nor is any regular cleaning done of these facilities. Even following the outbreak of the COVID-19 pandemic and the increasingly dire warnings from public health professionals, BCHOC has no professional cleaning crews of any kind. Souza Dep. at 211. While Defendants claim to have protocols and procedures in place for sanitation, including supposed regular cleanings performed by “detainees or staff,” in fact no one is monitoring that such cleaning is happening. Superintendent Souza – the individual who is supposedly most knowledgeable about BCHOC’s sanitation and hygiene procedures – testified that he has not set foot in any of the units in question for the last 3-4 weeks. Souza Dep. at 168 (Unit A), 182 (Unit B), 188 (EB Unit), 193 (2 East).

Class members themselves, who live in the units and experience their conditions every day, attest to the poor conditions on the ground. Detainees or inmates from state custody previously did some of the cleaning. Fall Decl. ¶ 3. Now, even this has stopped, and correctional officers tell class members it is “not their job” to clean. *Id.*; Declaration of Conroy Lewis ¶ 2. The result is as one might expect: filthy bathrooms with standing water and trash strewn on the floor. *Id.* ¶ 4.; Castillo Martinez Decl. ¶ 4; Dias Decl. ¶ 6. Toilets are open-lidded, frequently clogged, and dirty. Fall Decl. ¶ 4; Lewis Decl. ¶ 4 .

Other shared surfaces, such as tables, chairs, and phones, are similarly used by dozens or more individuals throughout the day, without any kind of regular cleaning, much less disinfecting between each use. Hand sanitizer and soap frequently runs out; and no provision is

made to give detainees personal cleaning materials for their bunks or for use on shared spaces. *See, e.g.*, Declaration of Jhony Bonilla Ochoa ¶ 11; Castillo Martinez Decl. ¶ 9; Declaration of Aires Da Graca ¶ 8; Guerrero Decl. ¶ 5. Even at mealtime, when hand-to-mouth contact raises the risk of infection substantially, no wipes or other cleaning materials are given to detainees to wipe down surfaces before eating. Souza Dep. at 219 (“Those wipes are for staff to clean the control areas and computers and so forth.”).

Meal preparation is similarly problematic, conducted by scores of different people in a congregate kitchen. Souza Dep. at 76 (“So we may have a total of, say, 40 inmates that work in the kitchen during three specific shifts”). Notably, these are not even workers from the same population of civil immigration detainees; they are individuals from a different part of the facility that houses sentenced inmates, creating yet more cross-contamination. *Id.* at 214 (“All of the kitchen workers are sentenced inmates.”).

#### **IV. There is Insufficient Personal Protective Equipment at BCHOC**

Provision of Personal Protective Equipment (PPE) at BCHOC is inadequate, and use is sporadic. Since this litigation commenced, staff have been provided with masks. But use is inconsistent. Class members report that staff often have their masks on, but up around their foreheads or down at their chins. Fall Decl., ¶ 7; Declaration of Jhony Bonilla Ochoa ¶ 7. While staff are issued 5 masks, detainees have only been given one each – despite a stockpile of 2,000 masks in the facility. Souza Dep. at 85, 89, 96. Detainees are told to clean their own masks but given no replacement masks while they are doing so. Fall Decl. ¶ 6; Castillo Martinez Decl. ¶ 7; Guerrero Decl. ¶ 6. Staff sometimes wear gloves, sometimes not. Floriano Dep. (Rough) at 53. Class members are given no gloves at all. Souza Dep. at 120.

V. **The Actual Number of COVID-19 Cases At BCHOC Is Unknown, Because BCHOC Conducts Hardly Any Testing.**

Testing and contact-tracing at BCHOC is insufficient and ad hoc. Although public health professionals advise that many individuals have and can spread the virus, despite remaining asymptomatic, BCHOC conducts no testing of asymptomatic individuals. Souza Dep. at 163-64 (new arrivals not tested); *id.* at 318 (no asymptomatic testing); Hodgson Dep. (Rough) at 132 (same). This stands in stark contrast to the growing number of detention facilities, including the federal Bureau of Prisons, that are ramping up testing to cover their entire populations, including those who are asymptomatic.<sup>7</sup> And while Defendant claims to test any detainee who reports two or more from a list of common COVID-19 symptoms, class member medical records indicate otherwise, with many such individuals going untested. Floriano Dep. (Rough) at 98-99; *see, e.g.*, Class Member Progress Notes at 2 (noting that individual reported fever and cough on April 5, 2020, but not noting a test); May 4, 2020 Inmate Testing Sheet (showing just 25 inmates tested for COVID-19). Contact tracing for those who have tested positive is also irregular at best, further inhibiting any possibility of containing the virus. *See, e.g.*, Souza Dep. at 279-80 (limited contact tracing for Sheriff’s Office employees, no written policies describing contract tracing); 288:4-7 (unsure whether contact tracing has been done for medical staff).<sup>8</sup>

Even despite this lack of consistent or widespread testing, the virus has clearly breached the facility walls. A steadily growing number of facility staff have tested positive, and just this week the inevitable occurred: a class member tested positive for COVID-19 as well. That

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<sup>7</sup> *See Mass virus testing in state prisons reveals hidden asymptomatic infections; feds join effort*, USA TODAY (April 25, 2020) available at <https://www.usatoday.com/story/news/politics/2020/04/25/coronavirus-testing-prisons-reveals-hidden-asymptomatic-infections/3003307001/>.

<sup>8</sup> The CDC describes contact tracing as a “core disease control measure” and “a key strategy for preventing further spread of COVID-19.” *See Contact Tracing: Part of a Multipronged Approach to Fight the COVID-19 Pandemic*, CENTERS FOR DISEASE CONTROL AND PREVENTION, available at <https://www.cdc.gov/coronavirus/2019-ncov/php/principles-contact-tracing.html>.

detainee has been at BCHOC since November, and therefore could only have become infected at BCHOC. Hodgson Dep. (Rough) at 127-28, 131. He was housed in Unit B, most recently in close proximity with approximately 25 other detainees. Souza Dep. at 182-83. It is inconceivable that he is the only detainee who has contracted the virus.

**VI. Defendants Are Not Taking Reasonable Steps To Mitigate Substantial Health Risks To Class Members**

Defendants have failed to take reasonable measures to mitigate the threat posed by COVID-19 to the health and well-being of class members. Defendants have not analyzed the detainee population to determine if voluntary releases would be possible for any individuals. Neither Sheriff Hodgson nor Superintendent Souza nor Nelly Floriano, the Nursing Supervisor, has ever had any discussions with ICE about voluntary releases of medically-vulnerable individuals, even though ICE publicly claims to have “evaluated its detained population based upon the CDC’s guidance for people who might be at higher risk for severe illness as a result of COVID-19 to determine whether continued detention was appropriate.”<sup>9</sup> No public health experts have been consulted to analyze whether additional steps should be taken to minimize risk, and the unsafe and unsanitary conditions described above have all been allowed to persist. Floriano Dep. (Rough) at 20-24, 26, 104-05; Souza Dep. at 231-32, 234, 236; Hodgson Dep. (Rough) at 35-36. In fact, despite the overwhelming public health guidance to the contrary, Defendants have repeatedly taken the position that BCHOC is safe no matter the population density. Hodgson Dep. (Rough) at 82; Floriano Dep. (Rough) at 30-32; Souza Dep. at 242-43.

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<sup>9</sup> Not only is such screening purportedly required by ICE’s own guidance, it has also been mandated as part of a nationwide class action. *See Fraihat v. U.S. Immigration and Customs Enforcement*, Case No. 5:19-cv-01546-JGB-SHK, at 38 (C.D. Cal. Apr. 20, 2020), ECF No. 132, at 28 (requiring ICE to identify and track high-risk individuals in custody and make timely custody redeterminations). Yet there is no evidence that any such conversations have even occurred at BCHOC, and certainly no releases have transpired on these grounds.



## ARGUMENT

On a motion for preliminary injunction, the Court analyzes four factors: (1) the likelihood of success on the merits; (2) the potential for irreparable harm if the injunction is denied; (3) the relative hardships; and (4) the effect on the public interest. *Esso Standard Oil Co. (P.R.) v. Monroig-Zayas*, 445 F.3d 13, 17-18 (1st Cir. 2006). Each overwhelmingly favors Plaintiffs.

### **VII. Plaintiffs Have A High Likelihood Of Success On The Merits.**

#### **a. The Conditions At BCHOC Are Unreasonably Unsafe, Rendering Them Unconstitutional.**

Plaintiffs have a high likelihood of succeeding on their claim that their continued detention violates the Fifth Amendment. In light of the COVID-19 pandemic and the close quarters described above, BCHOC is unreasonably unsafe. It is thus unconstitutional for Defendant to continue to hold class members there.

Immigrant detainees, whether or not they have prior criminal convictions, are unquestionably civil detainees held pursuant to civil immigration laws. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The Due Process Clause of the Fifth Amendment, which provides significantly greater protection than the Eighth Amendment’s ban on cruel and unusual punishment, safeguards the rights of civil detainees while in custody. As this Court has stated:

When the government “so restrains an individual’s liberty that it renders him unable to care for himself, and at the same time fails to provide for his basic human needs—e.g., food, clothing, shelter, medical care, and reasonable safety—it transgresses ... the Due Process Clause.”

ECF 64 at 19 (quoting *DeShaney v. Winnebago Cty Dept. of Soc. Servs.*, 489 U.S. 189, 199-200 (1989)). As described above, Defendants have failed to provide reasonable safety.

It is not enough for Defendants to mouth the right words, to simply say that they “are following all of the CDC guidelines.” Souza Dep. at 250. The question is whether the conditions at the facility actually provide the reasonable safety that the Constitution requires.

They do not – as the individuals who actually live there have continuously attested to, in sobering detail. Nelly Floriano, the Nursing Supervisor responsible for the medical health of ICE detainees at BCHOC, may state in a declaration that she is “in the detainee units every work day” and therefore “confident that the detainee population is sufficiently low so as to allow adequate social distancing . . . to be practiced in all of the detainee units.” Floriano Decl., ¶¶ 1, 7. But in fact, she has never even seen the bathrooms in any unit, let alone the cells that are most over-crowded in 2 East. Floriano Dep. at 41-43, 45-46. Class members who actually live in these cramped spaces paint a starkly different picture. They describe units as “really crowded; there are constantly many people in any given room” with “people . . . always around each other’s bunks.” Declaration of Amiry Carlos Dias ¶ 2; Declaration of Isaac Doe ¶ 4. Class members are “living in the same room, breathing the same air.” Declaration of Amaury Reyes Batista ¶ 3. Because of the congregate living, with dozens of people per unit, it is “impossible to be able to effectively social distance.” Dias Decl. ¶ 2. This is because individuals are on top of each other every day, with shared bathrooms, recreation space, and meals. Doe Decl. ¶ 5. Even where changes have been made to sleeping arrangements to try and create some distance, there are simply too many people held in these units for this to be viable. *Id.* ¶ 3 (describing attempts to change sleeping arrangements in 2 East but noting its ineffectiveness “because there are too many people in the Unit to [limit the number of people per cell]”).

b. Defendants Have Taken Insufficient Steps In Light of Known Risk, Rising To the Level of Deliberate Indifference, and Such Conduct Will Continue Absent An Injunction

As this Court has recognized, the government must “at least” refrain from treating civil immigration detainees with deliberate indifference. ECF 64 at 19. This is so because deliberate indifference is the standard for a violation of a criminal detainee’s rights, and civil detainees are entitled to “more considerate treatment” than their criminal counterparts. *Youngberg v. Romeo*,

457 U.S. 307, 321-22 (1982). Thus, if civil detainees prove deliberate indifference, they *ipso facto* will prevail on a Fifth Amendment claim.

Plaintiffs have a high likelihood of succeeding even under the higher deliberate indifference standard. As this Court has stated, where a safety risk is known, the deliberate indifference inquiry “asks whether the government disregards the risk by failing to take reasonable measures to abate it.” ECF 64 at 22-23 (citing *Farmer v. Brennan*, 511 U.S. 825, 847 (1994)); *see also id.* at 20 (a defendant is deliberately indifferent when it has “actual knowledge of impending harm, easily preventable, and yet fail[s] to take the steps that would have easily prevented that harm”) (citing *Leite v. Bergeron*, 911 F.3d 47, 52-53 (1<sup>st</sup> Cir. 2018)). Here, it is undisputed that Defendants have actual knowledge of the harms caused by COVID-19. Souza Dep. at 270-71; *see also id.* at 275 (staff provided with hazard pay due to risks of infection). Yet they have failed to take numerous reasonable measures that would have abated that risk.

Most notably, Defendants have not viewed release of class members – even under strict conditions such as electronic monitoring and home confinement – as an option to reduce risk of infection. Certainly Defendants undertook no voluntary releases before this lawsuit was filed. But even after the lawsuit was filed and this Court made clear that “the question is whether the government is taking reasonable steps to identify those Detainees who may be released in order to protect everyone from the impending threat of mass contagion,” ECF 64 at 23, Defendants *still* took no such steps. *See Souza Dep.* at 229-30. Even as to medically vulnerable class members, Defendants did not analyze the population to ascertain if any should be released or even monitored more closely. Souza Dep. at 81-82, 236-37; Floriano Dep. Tr. (Rough) at 95-96 (Q: “Is there any difference between how you treat [high-risk] detainees compared to detainees

who are not at higher risk? A: No, there's no difference right now. No. Not that I'm aware of.  
Q: So you're not taking any additional steps to monitor those folks? A: No.”).

To the contrary, Defendants objected to release of *every one* of the individuals who came before this Court on an application for bail, insisting each day that “release of none of the listed individuals is required for either their safety or the safety of the remaining civil detainee population at BCHOC,” even as to individuals with no criminal records or pending charges and those with significant health issues that made them uniquely vulnerable to COVID-19.<sup>10</sup> Nor did Defendants ever alter their stance about the necessity of release to reduce risk of infection, even after numerous class members had been successfully released to their homes to safely quarantine there without incident. In fact, BCHOC’s nursing supervisor believes that population density is irrelevant to risk analysis. *See* Floriano Dep. (Rough) at 34.

Even more critically – and crucial to the need for injunctive relief – Defendants have made clear that, in their view, it would be perfectly fine to return to the population levels that existed at the start of this lawsuit. It is Defendants’ position that BCHOC could safely house today the exact same number of individuals that it held before the Court ordered releases. Souza Dep. at 242-43 (asserting that BCHOC could safely house “at least” 140 individuals); Floriano Dep. (Rough) at 30:16-24 (same). Sheriff Hodgson, who runs the facility, believes the Court’s bail orders were unnecessary and has not imposed any limit on the number of ICE detainees BCHOC will accept. Hodgson Dep. Tr. (Rough) at 82-83. Unless the Court imposes strict limits through a preliminary injunction, it is inevitable that pre-litigation density will return.

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<sup>10</sup> *See* ECF 50 (April 7 Input); ECF 58 (April 8 Input); ECF 67 (April 9 Input); ECF 75 (April 10 Input); ECF 79 (April 13 Input); ECF 80 (April 14 Input); ECF 85 (April 15 Input); ECF 88 (April 16 Input); ECF 94 (April 17 Input); ECF 102 (April 20 Input); ECF 105 (April 21 Input); ECF 111 (April 22 Input); ECF 116 (April 23 Input).

Rather than analyze the health and safety risk in light of the current pandemic, Defendants continue to simply fall back on arguments that they are “under capacity.” Yet this fails to acknowledge that what may be a facility’s safe capacity in normal times is simply not relevant given the global health crisis of COVID-19. After all, public schools have safe “capacities” too, and yet State governments across the country have essentially deemed the safe capacity of schools at the current moment to be zero. But Defendants have not consulted any public health experts about what BCHOC’s safe capacity would be in this pandemic. Souza Dep. at 231. Defendants’ repeated “business as usual” stance and refusal to even *consider* viable options such as supervised release evinces precisely the type of deliberate indifference in the face of known risk that the Supreme Court has held violates the Eighth Amendment. It thus violates the less stringent Fifth Amendment standard applicable to civil immigration detainees.

On any number of other matters, Defendants purport to recognize the importance of public health measures but have dug in and asserted there is nothing else they could do protect class members. *See* Souza Dep. at 230 (“I believe we’re doing everything we possibly can.”); Floriano Dep. Tr. (Rough) at 32-33 (same). Thus, while acknowledging that “preventing infection requires vigilant social-distancing,” Souza Dep. at 308, Defendants have maintained conditions that make social-distancing – much less vigilant social-distancing – impossible. While knowing of serious COVID-19 outbreaks in detention facilities throughout the country, Defendants have taken no steps to ascertain whether BCHOC is doing anything different from any of those facilities. Souza Dep. at 217, 311-15; Floriano Dep. Tr. (Rough) at 104:3-105:12.

#### **VIII. The Potential For Irreparable Harm Is Great.**

Medical and public health experts confirm that Defendants’ actions will cause severe injury and harm to Plaintiffs. This harm, serious illness or even death, is irreparable, as it “cannot adequately be compensated for either by a later-issued permanent injunction, after a full

adjudication on the merits, or by a later-issued damages remedy.” *Rio Grande Cmty. Health Ctr., Inc. v. Rullan*, 397 F.3d 56, 76 (1st Cir. 2005). Immediate relief and humanitarian release are essential to address the imminent hazards COVID-19 places upon Plaintiffs. Plaintiffs who contract COVID-19 as a result of their close confinement will have contracted an illness with no known cure that has led to a breathtaking loss of life. Gonsalves Decl., ¶ 5. This is true for all class members, as the disease does not discriminate based on age or health status. *Id.*, ¶¶ 5, 7. And even absent a present outbreak, detainees sit as kindling waiting for a match to inevitably be struck. As a result, they currently are experiencing additional harms and reporting extreme levels of anxiety and fear. *See, e.g.*, ECF 91-2 Supplemental Decl. of Menjivar-Rojas; ECF 91-4 Supplemental Decl. Keller ¶ 69; Guerrero Decl. ¶ 2 (describing panic attacks); Declaration of Isaac Doe ¶ 23 (“We’re right on top of each other. We’re sitting ducks.”).

#### **IX. The Balance Of Hardships And Public Interest Favor Plaintiffs.**

Both the balance of equities and the public interest heavily favor the Plaintiffs. In normal times, crowding and close quarters, the sharing of toilets, sinks, and showers, and communal food preparation and service may be considered uncomfortable. However, these conditions present a deadly threat to Plaintiffs in light of COVID-19. This threat is compounded daily, as staff come through the facility after being in contact with outside communities, and as other transfers-in still occur from criminal custody. The threat and exceptional risk COVID-19 poses to the class vastly outweighs any interest Defendants may have in maintaining their detention.

Since immigration proceedings are civil and non-punitive, “[t]here is no sufficiently strong special justification . . . for indefinite civil detention.” *Zadvydas*, 533 U.S. at 690. In fact, ICE has significant discretion to release immigration detainees, *see* 8 U.S.C. § 1226(a), and has a long-standing practice of releasing for humanitarian reasons even those whose detention has been mandated under particular immigration detention statutes, *see* 8 U.S.C. § 1182(d)(5); §

1225(b); § 1226(c). ICE regularly uses alternatives to detention to maintain custody and control over non-citizens in immigration proceedings, and is doing so for individuals whom the Court has released on bail. Defendants should not object to them here given the life-threatening conditions that exist in the immigration units of BCHOC.

**X. A Preliminary Injunction Is Warranted.**

In light of the above, all of the requirements for issuance of a Preliminary Injunction are fully satisfied. Accordingly, Plaintiffs respectfully request a preliminary injunction that:

1. Orders Defendant to release a specified number of individuals within a specific timeframe. Alternatively, the Court could accomplish this through individualized bail determinations. While the Court's orders to reduce BCHOC's density have begun to alleviate the problem, much more remains to be done to reduce density to a level at which all individuals could safely socially distance. If the Court is not inclined to order Defendant to reduce the population, the Court could continue on the efficient, workable path that it has been on in considering individual applications for bail. Approximately 60 class members have been fully briefed and are under advisement and could be released at any time on the same conditions that the Court has ordered for other class members over the past several weeks.

Plaintiffs believe that the burden should be placed on Defendants to justify continued detention for any particular class member through clear and convincing evidence that the class member is a danger to the community, or to show by a flight risk by a preponderance of the, and show that alternatives to detention have been considered. *See Gomes v. DHS*, Civil No. 20-cv-00453-LM (D.N.H.) (ordering that at the bail hearings, the respondents will have the burden to prove by clear and convincing evidence that each petitioner is either a danger to the public or a flight risk). *See also Reid v. Donelan*, 390 F.Supp.3d 201 (D.Mass., 2019); *Brito v. Barr*, 395 F. Supp.3d 135 (2019).

2. Enjoins Defendants from increasing the population above a level the Court determines to no longer be unreasonably unsafe. Any injunction that does not include a provision enjoining Defendants from increasing the population will be fruitless and create a never-ending cycle of releases and new admissions. Since the point of the Court's releases to date has been to reduce the overall density, an injunction enjoining Defendants from admitting new individuals is critical; otherwise, the Court's efforts will have been for naught.

3. Enjoins Defendants from maintaining unreasonably unsafe conditions for the remaining detainees. Although this is a habeas action, the Court is empowered to remedy otherwise unconstitutional conditions of confinement. *See Fox v. Lappin*, 441 F.Supp.2d 203, 205-06 (D. Mass. 2005) "some conditions of confinement are appropriately brought as habeas petitions."); *see also Kane v. Winn*, 319 F.Supp.2d 162, 215 (D. Mass. 2004). Such a remedy is appropriate here, and an injunction should include enjoining congregate sleeping spaces, ensuring adequate spacing in bathrooms, requiring regular professional cleaning of the facility, and ensuring provision of soap and sanitizer, as well as PPE.<sup>11</sup>

Finally, the Court has also taken under advisement Defendants' suggestion that a Special Master be appointed. Plaintiffs agree that, should the Court issue a Preliminary Injunction, appointment of a Special Master to oversee compliance would be appropriate.

## CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that a Preliminary Injunction issue.

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<sup>11</sup> While, to limit the spread of COVID-19, congregate sleeping facilities should be enjoined, class members remaining in the facility should not be subject to treatment that functionally mirrors solitary confinement, which is medically inappropriate, ineffective, and unlawfully punitive. *See Glossip v. Gross*, 135 S. Ct. 2726, 2765 (2015) (Breyer, J. dissenting) (stating that "it is well documented that such prolonged solitary confinement produces numerous deleterious harms."); *see also* note 8, *supra*.



May 6, 2020  
Respectfully Submitted,

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\* Motion for law student appearances pending.

**CERTIFICATE OF SERVICE**

I hereby certify that, on May 6, 2020 a copy of the foregoing document was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by email to all parties by operation of this court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF system.

Date: May 6, 2020

/s/ Lisa Pirozzolo  
Lisa Pirozzolo

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

MARIA ALEJANDRA CELIMEN SAVINO,  
JULIO CESAR MEDEIROS NEVES, and all  
those similarly situated,

Petitioners-Plaintiffs,

v.

STEVEN J. SOUZA,

Respondent-Defendant.

Case No. 1:20-cv-10617 WGY

**DECLARATION OF OREN SELLSTROM IN SUPPORT OF PLAINTIFFS' MOTION  
FOR PRELIMINARY INJUNCTION**

I, Oren Sellstrom, hereby declare as follows:

1. I am the Litigation Director at the Lawyers for Civil Rights Boston, counsel for Plaintiffs in the above captioned matter. I am licensed to practice law in the Commonwealth of Massachusetts and am admitted to practice before this Court.

2. I make this declaration in support of Plaintiffs' Motion for a Preliminary Injunction.

3. Attached hereto as Exhibit A is a true and correct copy of Plaintiffs' Notice of Rule 30(b)(6) Deposition of Bristol [County] House of Corrections, served on Defendants on April 26, 2020.

4. Attached hereto as Exhibit B is a true and correct excerpted copy of the rough transcript of the April 30, 2020 Deposition of Nelly Floriano.

5. Attached hereto as Exhibit C is a true and correct excerpted copy of the rough transcript of the May 5, 2020 deposition of Sheriff Thomas Hodgson.

6. Attached hereto as Exhibit D is a true and correct excerpted copy of the transcript of the May 1, 2020 deposition of Superintendent Steven Souza.

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

Executed this 6<sup>th</sup> day of May, 2020, in Boston, Massachusetts.

/s/ Oren Sellstrom  
Oren Sellstrom (BBO #569045)  
Lawyers for Civil Rights  
61 Batterymarch Street, 5th Floor  
Boston, MA 02110  
(617) 988-0606  
onimni@lawyersforcivilrights.org

Dated: May 6, 2020

CERTIFICATE OF SERVICE

I, Oren Sellstrom, hereby certify that a true and accurate copy of this document was served via ECF to all registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as nonregistered participants on May 6, 2020.

# EXHIBIT A

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

MARIA ALEJANDRA CELIMEN SAVINO,  
JULIO CESAR MEDEIROS NEVES, and all those  
similarly situated,

Petitioners-Plaintiffs,

v.

STEVEN J. SOUZA,

Respondent-Defendant.

Case No. 1:20-cv-10617 WGY

**PLAINTIFFS' NOTICE OF RULE 30(B)(6) DEPOSITION  
OF BRISTOL COUNTRY HOUSE OF CORRECTIONS**

Please take notice that pursuant to Federal Rule of Civil Procedure 30(b)(6), Plaintiffs, by and through their counsel, will take the deposition upon oral examination of Bristol County House of Corrections ("BCHOC") through one or more officers, directors, managing agents, or persons who consent to testify on its behalf with respect to the topics listed on the attached Schedule A.

The deposition will take place at 9:00 a.m. on April 29, 2020 via remote video, or at such other time and location mutually agreeable to counsel.

Plaintiffs request that BCHOC identify in writing at least two days in advance of the deposition the name(s) of the person(s) who will testify on its behalf and the subject(s) on which each person will testify.

The deposition will be taken before a court reporter, notary public, or other person authorized by law to administer oaths, and will be recorded by stenographic means and may also be recorded using audio and visual equipment.

Counsel for Defendants is invited to attend and cross-examine the witness.

    /s/ Oren Sellstrom      
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Oren Sellstrom (BBO #569045)  
Lauren Sampson (BBO #704319)  
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† admitted pro hac vice.

Dated: April 26, 2020

**SCHEDULE A**

**DEFINITIONS AND INSTRUCTIONS**

Plaintiffs hereby incorporate by reference the definitions set forth in Rule 26.5 of the Local Rules of the United States District Court for the District of Massachusetts as if fully set forth herein. In addition, as used herein, the following words shall have the following meanings:

1. The terms “BCHOC”, “You” and “Your” shall mean and refer to the Bristol County House of Correction, all associated facilities that house civil immigration detainees, and all employees, agents, and officers thereof.

2. The terms “Plaintiffs” or “Plaintiff” shall mean and refer to Maria Alejandra Celimen Savino, Julio Cesar Medeiros Neves, and all those similarly situated (all immigration detainees in BCHOC).

3. The term “Defendants” shall mean and refer to, individually and together, the defendants in the above captioned case.

4. The term “COVID-19” shall refer to and encompass the “coronavirus” and SARS-CoV-2.

5. The terms “detain” or “detained” shall mean and refer to the holding, control, or transportation of any individual in civil immigration custody.

6. The term “concerning” shall mean referring to, relating to, describing, evidencing, constituting, reflecting, or in any way logically connecting to the matter discussed.

7. For the purpose of reading, interpreting, or construing the scope of these Topics, the terms used shall be given their most expansive and inclusive interpretation.



8. The terms “and” and “or” must be read in both the conjunctive and the disjunctive wherever they appear, and neither of these words will be interpreted to limit the scope of a deposition topic.

9. The use of a verb in any tense will be construed as the use of the verb in all other tenses, and the singular form will be deemed to include the plural form and vice-versa.

10. Unless otherwise stated, the relevant time period for each topic below shall be February 1, 2020 to the present.

### **TOPICS FOR DEPOSITION**

1. The protocols or procedures in place at BCHOC, and each subsidiary wing, department, component, or unit that relate to the containment, prevention, or treatment of COVID-19.

2. The protocols or procedures in place at BCHOC, and each subsidiary wing, department, component, or unit relate to the testing of officials, correctional officers, staff, and/or detainees for COVID-19, including but not limited to, type of tests or tests used, number of tests conducted, test results, testing capacity, testing location, names of individuals tested, title of the individuals tested if staff and type of detainee tested (e.g., immigration detainee, state detainee, or prisoner), and unit where the tested individual is primarily housed or works.

3. The protocols or procedures in place at BCHOC, and each subsidiary wing, department, component, or unit, regarding sanitation, hygiene, sleeping arrangements, dining, common areas, and recreation.

4. The health status of officials, correctional officers, staff or detainees who presented with symptoms of COVID-19, including, but not limited to, number of people who

presented symptoms, what symptoms presented, whether those individuals were taken to a hospital off of the BCHOC property, whether the individuals were staff members or detainees and if staff, their title, whether those individuals were tested for COVID-19, what treatment was provided, and where the individuals work or were housed.

5. Communications between any combination of the following persons: Steven Souza, sheriffs, officials, staff, correctional officers, and ICE official, and detainees regarding COVID-19.

6. Communications between officials at BCHOC and detainees at BCHOC regarding the existent litigation *Savino v. Souza*.

7. The factual basis for Defendants' representation that the "level of detainee population [is] sufficiently low so as to allow appropriate [Center for Disease Control]-recommended social distancing at BCHOC." *See* Defendant's Input Regarding April 23 List, ECF No. 116 (April 23, 2020).

8. The factual basis for the statements in each declaration Defendants submitted in this litigation, including but not limited to Steven Souza's representations that: (a) "BCHOC has implemented very strict and practical policy and safety measures that ensure the health of all its inmates and detainees during this pandemic"; (b) "sleeping and living arrangements in all Units where detainees reside permit for social distancing recommended by the Center for Disease Control [] to occur on a full time basis"; (c) "maximum steps have been taken to minimize the risk of a COVID-19 infection and any spread"; and (d) "in the unlikely event an infection does occur, the facility is equipped with the tools to address the issue promptly and appropriately."

# EXHIBIT B

Page 1

1

2

NOTICE

3

4

5 This transcript is an UNCERTIFIED ROUGH DRAFT

6 TRANSCRIPT. It contains the raw output from the

7 court reporter's stenotype machine, translated into

8 English by the court reporter's computer, without

9 the benefit of proofreading. It will contain

10 untranslated steno outlines, mistranslations (wrong

11 words), and misspellings. These and any other

12 errors will be corrected in the final transcript.

13 Since this rough draft transcript has not been

14 proofread, the court reporter cannot assume

15 responsibility for any errors therein.

16 This rough draft transcript is intended to assist

17 attorneys in their case preparation and is not to be

18 construed as the final transcript. It is not to be

19 read by the witness or quoted in any pleading or for

20 any other purpose and may not be filed with any

21 court.

22

6 A There is a medical office, yes.

7 Q And so there is a separate one for each

8 unit?

9 A Yes.

10 Q And when you go to visit the units, is it

11 fair to say that you spend your time in that

12 medical office?

13 A I do go into the medical office. When I

14 go to ICE, the ICE building, B unit and A unit, I

15 do go through the unit and speak to some of them

16 when I am make -- go -- on my way to the office.

17 Q Speak to some of the detainees?

18 A Yeah.

19 Q And so generally where would you be

20 speaking to them? What area of the unit would you

21 be speaking to them?

22 A Right outside the office, the medical

23 office.

24 Q So would you typically go into the bunk

Page 19

1 area?

2 A I don't go into the bunk area. But

3 I'll -- if I go down to the security desk, on my

4 way to security, if I see a detainee, I do greet

5 them.

6 Q Would you typically go into their common

7 dining area?

8 A Not necessarily, no.

9 Q You wouldn't typically go into the

10 bathroom. Right?

11 A No.

12 Q And you wouldn't typically go into the

13 visitor's room?

14 A No.

15 Q The classroom?

16 A No.

17 Q The outdoor recreation area?

18 A No.

19 Q So on any given day if you could give an

20 estimate, how many ICE detainees do you think you

21 come in contact with?

22 A Probably, I would say, six to ten maybe.

23 Q And about how many nonICE detainees, so

24 inmates from other units?

Page 20

1 A Probably three or four. That's an

2 estimate. I'm not sure. It could vary.

3 Q And so just to go back to your education

4 a little bit.

5 An LPN is a generalized program. Right?

6 A I'm sorry, could you repeat that?

7 Q An LPN is a generalized program. Right?

8 A It's a nursing program.

9 Q So you don't -- the program doesn't train  
10 you to be a specialist in anything. Correct?

11 A No. No.

12 Q So it doesn't train you to be a  
13 specialist in infectious disease?

14 A No. There's seminars and classes you  
15 could take for that, but I have not.

16 Q Okay.

17 A At the time.

18 Q And COVID-19 is a new virus. Right?

19 A Correct.

20 Q Have you taken any specialized training  
21 or done any course work on stopping the spread of  
22 the COVID-19 virus?

23 A Here in the facility, with the director  
24 of nursing.

Page 21

1 Q Great. And so when was that?

2 A We meet weekly.

3 Q And for how long?

4 A We have been discussing it since the  
5 pandemic, we started discussing it.

6 Q So do you -- approximately when would you  
7 put that?

8 A I would say beginning of March.

9 Q And about how long do those meetings  
10 last?

11 A That varies as well. I would say at  
12 least an hour.

13 Q And what is discussed during those  
14 meetings?

15 A We discuss what measures we would take,  
16 if needed be; what units we would use to isolate  
17 and quarantine anyone that potentially had the  
18 virus.

19 We discussed the equipment. We -- they  
20 update us on the guidelines.

21 Q And who is the Director of Nursing?

22 A Barbara Bell.

23 Q And can you just spell the last name?

24 A B-E-L-L.

1 Q And so it's Barbara, B-A-R-B-A-R-A?



2 A Yes. And also Maureen Atkins, which is

3 the head of the department, medical department.

4 Q And is she a doctor, a nurse, or --

5 A Nurse.

6 Q And so is everything that you discussed

7 during those weekly meetings related to COVID-19?

8 A Yes. The weekly meetings actually

9 started the beginning of April. We would discuss

10 and meet, but it wasn't routine meetings until

11 April, the beginning of April.

12 Q Okay. Oh, in March it was approximately

13 how many of these meetings?

14 A It was just updates on the CDC

15 guidelines.

16 Q And are you the only person who attends

17 these meetings?

18 A No. Nurses. Nurses.

19 Q All of the nurses?

20 A Yes. They're all invited to attend.

21 Q Sorry. I just --

22 A I apologize. I said they're all invited

23 to attend.

24 Q But they are not required?

1 A It is not mandatory, no.

2 Q Do all of them show up?

3 A A majority, not all. They are updated  
4 after. Whoever does not attend gets an update on  
5 what the meeting was about.

6 Q And do you provide that update?

7 A No. Barbara, the director of nurses.

8 Q And I don't think I caught it. Barbara  
9 bell, is she a nurse as well?

10 A Yes.

11 Q And so are her and Maureen Atkins both  
12 RNs, registered nurses?

13 A Barbara is an LPN.

14 Q Barbara is an LPN. Okay. But Maureen is  
15 a registered nurse?

16 A Barbara is an LPN and Maureen is an RN.

17 Q And can you give me a general idea of how  
18 those meetings occur? What happens during those  
19 meetings?

20 A We just -- they just update us if there's  
21 any changes on the guidelines. Like if there's  
22 changes to the units or them' give us an update on  
23 the guidelines if there was an update on the CDC  
24 guidelines. We just go over that. And they see

1 if there's any questions or concerns.

2 Q And so is it just a verbal update from

3 Barbara or --

4 A No. It's a meeting minute.

5 Q And so it's kind of like a memo that

6 summarizes the update?

7 A Yeah.

8 Q And do you discuss what's happened on the

9 unit the week before?

10 A No.

11 Q Okay. So it is just an update on the

12 guidelines?

13 A Yeah, just an update on the guidelines.

14 Q And do you discuss how measures that have

15 been taken previously have been working?

16 A Yes, we do.

17 Q And is that raised by the nurses or by

18 Maureen and Barbara?

19 A By the staff, I'd say.

20 Q Have you received any other training on

21 COVID-19?

22 A No.

23 Q Do you know if the nurses on your staff

24 have received any other training on COVID-19?

Page 26

1 Q So you're not aware that the droplets

2 could go farther than 6 feet?

3 A No.

4 Q And what's the basis for your knowledge

5 of the 6 feet figure?

6 A Just social distancing at least 6 feet.

7 Q And so I'm just trying to get out where

8 did you get your information on social distancing?

9 A CDC.

10 Q And so you're not aware that it can go --

11 that the virus can be spread further than 6 feet

12 from an infected person?

13 A No. I just -- I just know that to at

14 least be 6 feet away from someone.

15 Q Would you agree that the virus can live

16 on hard surfaces for hours and can be spread if

17 someone else touches a surface?

18 A Yes.

19 Q And is that true of the tables and chairs

20 in the detainees' unit areas?

21 MR. KANWIT: Objection.

22 Q You can answer.

23 THE WITNESS: I can answer?

24 MR. KANWIT: Yes.

23 A Yes.

24 Q And you wanted that motion to be granted.

Page 30

1 Right?

2 MR. KANWIT: Objection.

3 Q You can answer.

4 A Yes.

5 Q Do you understand that since this case  
6 was filed, judge young has reduced the detainee  
7 population by nearly a third?

8 A Yes.

9 MR. KANWIT: Objection.

10 Q Do you think that that was a necessary  
11 step?

12 MR. KANWIT: Objection.

13 THE WITNESS: I can answer?

14 MR. KANWIT: Yes. If you have an answer.

15 A I really don't have an answer.

16 Q So you think that before detainees were  
17 released, they were safe from COVID-19 in the  
18 Bristol facility?

19 A Yes.

20 Q And so there was no reason for the judge

22 MR. KANWIT: Objection.

23 Q You can answer.

24 A No.

Page 31

1 Q No, there was no reason for the judge to  
2 order them released?

3 A No.

4 Q Are ICE detainees at risk for contracting  
5 COVID-19 while detained in Bristol?

6 MR. KANWIT: Objection.

7 Q Sorry, do I need to repeat my question?

8 A Yes, please.

9 Q Are ICE detainees at risk for contracting  
10 COVID-19 while detained in Bristol?

11 MR. KANWIT: Objection.

12 Are you comparing that to if they weren't  
13 at Bristol?

14 MS. FONTAINE DOOLEY: I'm not making any  
15 comparison. I'm just asking are they at risk  
16 while they're at Bristol.

17 MR. KANWIT: Objection. I think it is a  
18 misleading question and it implies a comparison.

19 Q That's fine. You can answer.

20 A I feel that anyone could be at risk. I

21 don't -- I ...

22 Q Has their level of risk changed over the

23 last six weeks?

24 MR. KANWIT: Objection.

Page 32

1 A No.

2 Q So at any point since March 1, did you  
3 make any recommendations to anyone at Bristol as  
4 to steps that could be taken to better protect  
5 detainees from COVID-19?

6 A The steps we just educate everyone about  
7 personal protective equipment, disinfecting, and  
8 we also let the detainees as well, the importance  
9 of hand washing and disinfecting and they've also  
10 been provided with masks, so they have PPE.

11 Q And so did you -- sorry, did you make any  
12 of those recommendations, or were those  
13 recommendations that you were following?

14 A Following.

15 Q Have you separately made any  
16 recommendations for any steps that can be taken at  
17 Bristol to prevent the spread of COVID-19?

18 A No.

19 Q So you haven't made any recommendations

20 that weren't ultimately adopted?

21 A No.

22 Q Is there anything at all that you think

23 Bristol should be doing differently to protect

24 detainees from COVID-19?

Page 33

1 A No.

2 Q So everything at Bristol is perfect from

3 your perspective in that arena?

4 MR. KANWIT: Objection.

5 A I feel that we're doing a good job right

6 now, and what we have in place is working.

7 Q And you wouldn't change anything?

8 MR. KANWIT: Objection.

9 A No.

10 Q Has anyone else -- have any of the other

11 nurses made any recommendations to Bristol as to

12 steps that could be taken to prevent the spread of

13 COVID-19 amongst detainees?

14 A No.

15 Q So no one has raised concern at those

16 weekly meetings about things that could be done

17 differently?



18 A No.

19 Q And so as a healthcare professional, it  
20 is not your opinion that detainee risk of  
21 contracting COVID-19 has gone down as a result of  
22 the release of detainees by the court?

23 MR. KANWIT: Objection as to form.

24 Q Can you answer my question, or would you

Page 34

1 like me to rephrase?

2 A I would say no.

3 Q So, no, the risk -- the detainee risk of  
4 contracting COVID-19 has not gone down as a result  
5 of the court's order to release individuals from  
6 Bristol?

7 A No.

8 Q And are you aware of any informal  
9 discussions between nurses about concerns they  
10 have about the steps Bristol is taking to prevent  
11 the spread of COVID-19?

12 A No.

13 Q What is your understanding of the public  
14 health guidance with regard to social distancing?

15 A Can you say that again. I'm sorry.

16 Q Yeah. No problem. What is your

18 regard to social distancing?

19 A The importance of being at least 6 feet

20 apart from someone.

21 Q And what's the purpose of that?

22 A Because of the spread of COVID with the

23 droplets amongst sneezes, coughs.

24 Q It could go up to 6 feet, in your

Page 35

1 understanding?

2 A Yeah.

3 MS. FONTAINE DOOLEY: I'm going to mark

4 the facility diagram as Exhibit 2, please.

5 (Floriano Deposition Exhibit 2 marked for

6 identification and is attached to the transcript.)

7 Q Do you recognize this document?

8 A I have never seen it before.

9 Q So you can go ahead and take a moment to

10 review it. I will represent to you that this was

11 submitted by the government in support of its

12 motion to stay further releases from Bristol.

13 Let me know when you are all set with

14 reviewing it.

15 A Okay.

11 A Yeah.

12 Q And in the -- in 2 East, in that unit,

13 there are group cells. Correct?

14 A Yes.

15 Q And how many people are in each cell?

16 A I'm not sure exactly how many they have

17 in each cell.

18 Q Do you know how many each cell can hold?

19 A I'm not sure if it's -- I'm not sure off

20 the top of my head. No, I'm not.

21 Q Are there bunk beds in those cells?

22 A Yes.

23 Q And are some bunk beds occupied by two

24 people?

Page 41

1 A I'm not sure.

2 Q Are some of the bunk beds arranged within

3 6 feet of one another?

4 A I'm not sure.

5 Q Bathrooms are communal for all the units.

6 Right?

7 A Yes.

8 Q If there are two bathrooms to a unit is

9 there any restriction on which one certain inmates

11 A I'm not sure.

12 Q Are there any restrictions on when

13 detainees can use bathrooms?

14 A No. Not that I'm aware of.

15 Q How about the sinks, showers, or toilets

16 within a bathroom. Are there any restrictions as

17 to which one a detainee can use?

18 A Not that I'm aware of.

19 Q So for Unit A, are the toilets more or

20 less than 6 feet apart from one another?

21 A I'm not sure. I never went into the

22 bathroom.

23 Q Oh, okay. So you have never been in the

24 bathroom?

Page 42

1 A No.

2 Q And no one has ever told you the

3 arrangement of the bathroom?

4 A No.

5 Q And that's the same for all of the units?

6 A That I'm unaware?

7 Q Yes.

8 A Yes.

9 Q Right. Okay.

10 In the dining areas, are there any  
11 restrictions on how close detainees can sit with  
12 one another?

13 A Not that I'm aware of. I'm not sure.

14 Q So you're not aware of any restrictions?

15 A I am not aware, no.

16 Q Do you know how close the detainees do  
17 sit next to one another during meal times?

18 A I do not.

19 Q Do you know if there's been any change in  
20 how close they sit to one another during meal  
21 times since the start of the COVID-19 outbreak?

22 A I am not aware. I'm not sure.

23 Q Just to go back to the bathrooms just to  
24 confirm.

Page 43

1 So you don't know how close the showers  
2 are to one another?

3 A No.

4 Q You don't know how close the toilets are  
5 to one another?

6 A No.

7 Q And you don't know how close the sinks

8 are to one another?

9 A No.

10 Q And that's true for Unit A. Correct?

11 A Yes.

12 Q And Unit B?

13 A Yes.

14 Q And Unit 2 East?

15 A Yes.

16 Q And Unit EB?

17 A Yes.

18 Q Okay.

19 MS. FONTAINE DOOLEY: So we have been

20 going for about an hour. Is now a good time for a

21 break, Tom?

22 MR. KANWIT: It's fine. How much longer

23 do you think you'll have?

24 MS. FONTAINE DOOLEY: I have a ways to

Page 44

1 go. I'd say we have at least another hour.

2 MR. KANWIT: Okay. Yeah, then I think a

3 short break would be good.

4 MS. FONTAINE DOOLEY: Okay.

5 MR. KANWIT: How long do you think,

6 Nicole?

7 MS. FONTAINE DOOLEY: Maybe ten minutes

8 if that works for you.

9 MR. KANWIT: Yeah, that's fine.

10 MR. BUTTS: Ms. Floriano, you are doing  
11 most of the work here. How much time would you  
12 like?

13 THE WITNESS: About 15 minutes if that's  
14 okay.

15 MR. BUTTS: That sounds great.

16 MS. FONTAINE DOOLEY: That works for us.

17 MR. BUTTS: I have 12:10 on my clock. So  
18 thereabouts, that sounds great.

19 THE WITNESS: Thank you.

20 (A recess was taken.)

21 BY MS. FONTAINE DOOLEY:

22 Q Welcome back, Ms. Floriano.

23 Did you speak with anyone about the  
24 substance of your testimony during the break?

Page 45

1 A No, I did not.

2 Q Going back to the seg units. Can you  
3 describe how those -- I believe you said it was --

4 A The seg units.

5 Q Yes. EA and EC, how are they set up? So

7 A EA?

8 Q Yes.

9 A They are single cells, I believe.

10 Q So single occupancy cells?

11 A Yes.

12 Q And can you give me a layout of the cell?

13 A No, I could not.

14 Q Okay. Do the cells each contain -- or

15 each include a toilet?

16 A Yes.

17 Q And a shower?

18 A No.

19 Q Are there communal showers that people

20 who are housed in unit EA use?

21 A Yes.

22 Q And are those showers shared with any

23 other units or is it just limited to EA?

24 A Just EA.

Page 46

1 Q And do you know how far apart those

2 showers are from each other?

3 A No, I do not.

4 Q How many showers are there for that unit?



5 A I am not sure.

6 Q Are there any communal toilets for that  
7 unit?

8 A I'm not sure.

9 Q Communal sinks?

10 A I'm not sure.

11 Q And for unit EC, how are the cells laid  
12 out?

13 A The cells? I'm not sure if they're  
14 single cell or not. I believe they are, but I'm  
15 not sure.

16 Q Do each of them contain a toilet?

17 A I'm not sure.

18 Q Do they contain a shower?

19 A No. They do contain a toilet.

20 Q Do people housed in EC use a communal  
21 shower?

22 A Yes.

23 Q And is that communal shower shared with  
24 any other unit?

Page 47

1 A No.

2 Q Do you know how many showers are  
3 included?

1 Q Has there been any changes to detainee  
2 placement within the bunk room, that you're aware  
3 of, since April 14?

4 A No.

5 Q We can move on from this exhibit.

6 Does Bristol have a policy with regard to  
7 staff members' use of personal protective  
8 equipment?

9 A Yes.

10 Q And what is that policy?

11 A We are all to use face masks when we come  
12 in. If -- if in nursing, anyone is reporting any  
13 symptoms, we use a face mask with a shield,  
14 gloves, and gown. If we interact with anyone with  
15 possible symptoms.

16 Q So you don't wear gloves on a daily  
17 basis?

18 A The nurses do during med pass and when  
19 assessing. But I don't keep -- I don't wear  
20 gloves all day long, no.

21 Q But you do wear a face mask all day long?

22 A I do.

23 Q And what is med pass?

24 A When we administer medication.

8 Q So you're not aware of any restrictions?

9 A I'm not aware, no.

10 Q Any prohibitions on other employment?

11 A Say that again. I'm sorry.

12 Q Are there any prohibitions on other  
13 employment?

14 So can nurses and doctors hold another  
15 job --

16 A I'm not -- I don't know.

17 Q -- at Bristol?

18 A I'm not aware. I don't know if there's a  
19 policy on that. I don't know.

20 Q Do you know of any nurse or doctor who  
21 works at another job?

22 A No.

23 Q So you're not aware of anyone doing  
24 shifts at a hospital, for instance?

Page 71

1 A No.

2 Q Not in a nursing home?

3 A I'm aware of one nurse that has another  
4 job.

5 Q And she works in a nursing home?

6 A Yes.

7 Q Does anyone work as a home health aide?

8 A I don't know.

9 Q Does anyone work at another correctional

10 facility?

11 A Yes.

12 Q How many people work at another

13 correctional facility?

14 A One.

15 Q And is that a nurse?

16 A Yes.

17 Q And so who was the nurse who works at a

18 nursing home?

19 A Her name?

20 Q Yes.

21 A Her name is Ashley.

22 Q Last name?

23 A She just changed her last name. I want

24 to say it's Frois, F-R-O-I-S, I believe.

Page 72

1 Q And do you know what nursing home she

2 works at?

3 A No.

4 Q And the nurse who works at another

5 correctional facility, what's her name?

5 A That varies. I'm not sure.

6 Q Would you say it's five, ten?

7 A I'm not sure because I'm -- I don't do

8 security. I'm not sure.

9 Q Do you know if any of them work in other

10 areas at Bristol, besides the ICE units?

11 A I'm not sure.

12 Q What about doctors; do the detainees have

13 contact with doctors?

14 A They have contact with the nurse

15 practitioners, yes.

16 Q But not with doctors?

17 A The doctor right now is working through

18 tele health.

19 Q Okay. So for the nurse practitioner

20 then, do you know -- you said there were two nurse

21 practitioners working on the ICE units. Is that

22 right?

23 A Yes, they work for medical, yes.

24 Q So they work for all inmates at Bristol,

Page 74

1 not just ICE detainees?

2 A Correct.

3 Q And what about food service workers; are

4 there any food service workers that the ICE

5 detainees come in contact with?

6 A No. Not that I'm aware of. No.

7 Q Social workers?

8 A Not sure. I know of nurses and mental

9 healthcare workers.

10 Q Okay. And the mental healthcare workers,

11 what is their role?

12 A They see them for any mental health

13 issues.

14 Q How many mental health workers are there,

15 approximately?

16 A Approximately seven.

17 Q And do they work with all detainees and

18 inmates at Bristol or just the ICE detainees?

19 A Inmates and detainees.

20 Q Are there any other types of staff

21 members that you can think of that the ICE

22 detainees would come in contact with?

23 A No. Not off the top of my head, no.

24 Q Any nonstaff members?

Page 75

1 A No.

2 Q Volunteers?

11 Q And do you know if the contact tracing  
12 that we talked about for the nurse was done for  
13 the other individuals who tested positive for  
14 COVID-19?

15 A I'm not aware. I don't know.

16 Q Do you know if -- do you know how far  
17 back the contact tracing goes from the date of the  
18 test?

19 A I do not.

20 Q What is the protocol that would be  
21 followed if a detainee had a positive COVID-19  
22 test?

23 A If they have a positive COVID-19 test?

24 Q Yes.

Page 95

1 A They would be -- they would be in  
2 isolation. The nurse would be assessing their  
3 vital signs twice a day. They would be checking  
4 to -- you know their lung sounds, you know,  
5 reviewing any symptoms, any shortness of breath,  
6 any chest pain, monitoring their fever, treating  
7 them for their symptoms.

8 Q And would they have been put in  
9 isolation?

10 A Yes.

11 Q And has this protocol been initiated for  
12 anyone?

13 A No, we haven't had anyone positive.

14 Q Do you understand that certain people are  
15 at higher risk for contracting COVID-19?

16 A Yes.

17 Q And do you understand that certain people  
18 are at higher risk for developing a serious  
19 illness as a result of COVID-19?

20 A Yes.

21 Q Is there any difference between how you  
22 treat those detainees compared to detainees who  
23 are not higher risk?

24 A No, there's no difference right now. No.

Page 96

1 Not that I'm aware of.

2 Q So you're not taking any additional steps  
3 to monitor those folks?

4 A No.

5 Q If you can just give me one minute, I'm  
6 just going to take a look at my notes to make sure  
7 we're on track.

8 MS. FONTAINE DOOLEY: All right. Would



9 you mind if we took a five-minute break, Tom?

10 MR. KANWIT: I wouldn't. I'd like to  
11 have some sense of how much longer you think we  
12 are going to go.

13 MS. FONTAINE DOOLEY: I don't think it  
14 will be very much longer at all.

15 MR. KANWIT: Okay. That's fine.

16 MS. FONTAINE DOOLEY: Ms. Floriano, that  
17 okay with you? Would you like a little bit longer  
18 of a break?

19 THE WITNESS: Me?

20 MS. FONTAINE DOOLEY: Yes.

21 THE WITNESS: Oh, I'm fine. Thank you.

22 MS. FONTAINE DOOLEY: Okay. Great. So I  
23 think let's come back at -- let's just say 1:40 to  
24 make it a round number.

Page 97

1 MR. BUTTS: Nicole, why don't we go to a  
2 quarter of, and Tom and Nelly, just for your  
3 benefit, we're hoping to wrap it up within a few  
4 minutes after that. So let me just see if there  
5 is anything else we want to touch on. But it  
6 shouldn't be very long.

7 MR. KANWIT: That's fine.

8 MS. FONTAINE DOOLEY: Okay. Great.

9 (A recess was taken.)

10 BY MS. FONTAINE DOOLEY:

11 Q So welcome back.

12 Did you discuss the substance of your

13 testimony with anyone during the break?

14 A No.

15 MS. FONTAINE DOOLEY: All right. So I am

16 going to ask if we could park the CPS guidelines

17 at Exhibit 3.

18 (Floriano Deposition Exhibit 3 marked for

19 identification and is attached to the transcript.)

20 Q So Ms. Floriano, you are being shown

21 Exhibit 3.

22 Do you recognize this document?

23 A I do.

24 Q What is it?

Page 98

1 A It's the CPS guidelines for COVID.

2 Q And to your knowledge, are these the

3 current guidelines?

4 A No.

5 Q Let's go through them as we have them

6 here, and then I will ask you about changes.

7 So if you look at the top here, you have  
8 a list of COVID-19 coronavirus symptoms. Is that  
9 correct?

10 A Yes.

11 Q And so you listed before the symptoms  
12 that might lead to test being.

13 Do you explain to me exactly how it is  
14 determined whether a detainee needs a COVID-19  
15 test?

16 A Two or more symptoms. But the  
17 symptoms -- we have more symptoms listed now on  
18 our updated guidelines. We have body aches,  
19 headache, vomiting, nausea, and an additional one  
20 of increased confusion in the elderly.

21 Q And so it could be any two of the  
22 symptoms listed or the ones that you just listed  
23 for the updated guidance?

24 A Correct.

Page 99

1 Q And only four people have presented with  
2 those symptoms in the last month, with two or more  
3 of those symptoms in the last month?

4 A That I'm aware of.

5 Q And who makes the determination about

7 A What we do is, if a detainee reports any  
8 symptoms to the nurse, either by sick slip or  
9 verbally, they are to contact the nurse  
10 practitioner and let them know that someone is  
11 reporting symptoms.

12 Q And then the nurse practitioner decides  
13 if a test is required?

14 A Correct.

15 Q Do you have discretion to order a test  
16 outside of these guidelines?

17 A I personally do not.

18 Q Does a nurse practitioner have discretion  
19 to order a test outside of these guidelines?

20 A I am not sure.

21 Q Do you know if a nurse practitioner has  
22 ever ordered a test outside of these guidelines?

23 A I know before we would do a strep test,  
24 and then we would do the flu as well. But we are

Page 100

1 no longer doing that. We go right to the COVID  
2 screening. Other than that, I don't know of any  
3 other testing they have ordered.

4 Q So you're not doing influenza A and B

4 A Yes.

5 Q Have you ever had trouble getting in  
6 touch with them?

7 A No.

8 Q Have you ever recommended to a nurse  
9 practitioner that there be a test?

10 A Honestly, I haven't had to. Because  
11 anyone that I thought that might -- should be  
12 tested, they've decided to test.

13 Q And is that true for -- you've never  
14 heard of another instance of someone making a  
15 recommendation to a nurse practitioner to test  
16 that was reduced?

17 A No, I have never heard.

18 Q So you're in regular contact with nurses  
19 and staff at Bristol. Right?

20 A Correct.

21 Q And have you had any conversation in the  
22 last two months about safety issues related to  
23 COVID-19?

24 MR. KANWIT: Objection.

Page 102

1 A No, not that I can think of at this  
2 moment.

3 Q Okay. So nothing related to inmate or

4 detainee safety?

5 MR. KANWIT: Objection. She's talked

6 about training. She's talked about a number of

7 conversations already.

8 MS. FONTAINE DOOLEY: Right.

9 Q I'm asking about conversations that you

10 have had.

11 Do you recall any conversations that you

12 have had in the last two months about concerns

13 about detainee safety relating to COVID-19.

14 MR. KANWIT: And I object.

15 A We have discussed how to continue to keep

16 people safe, but no concerns about them not being

17 safe.

18 Q So I guess you're right, that's what I am

19 getting at.

20 No one has expressed, you have not heard

21 anyone express concerns about detainee safety in

22 light of COVID-19 in the last two months?

23 A Correct.

24 MR. KANWIT: Objection.

1 Q And you have not heard anyone express

2 concerns about staff safety in light of COVID-19

3 in the last two months?

4 MR. KANWIT: Objection.

5 A I have not.

6 Q And you haven't expressed any concerns to

7 anyone else inside the facility. Is that right?

8 A Can you just repeat that one more time.

9 I'm sorry.

10 Q Yeah. So you haven't expressed any

11 concerns about detainee or staff safety to anyone

12 inside the facility. Correct?

13 MR. KANWIT: Objection.

14 A Correct.

15 Q And you haven't expressed any of those

16 concerns to anyone outside of the facility.

17 Correct?

18 MR. KANWIT: Objection.

19 A Correct.

20 Q And you're not aware of anyone saying --

21 any staff member within the facility saying that

22 Bristol should be doing something different in

23 response to COVID-19?

24 MR. KANWIT: Objection.

1 A No.

2 Q Sorry, I didn't quite hear your answer.

3 A No one has discussed that with me.

4 Q And no one has been critical of the  
5 Bristol practices in response to COVID-19 to you?

6 MR. KANWIT: Objection.

7 A Not to me, no.

8 Q So are you aware that there's been  
9 several correctional facility outbreaks of  
10 COVID-19?

11 A I have -- I've been told that there's  
12 been other facilities that have had outbreaks.

13 Q Have you heard of outbreaks at  
14 MCI-Shirley, Bridgewater, or MC-Framingham --  
15 MCI-Framingham?

16 A Bridgewater, I had heard of.

17 Q Are you following that outbreak at all --

18 A I am not.

19 Q -- in the news? Okay.  
20 Have you thought about changing anything  
21 as a result of that outbreak for Bristol?

22 MR. KANWIT: Objection.

23 A No.

24 Q Do you know of anybody else who is



1 following those outbreaks and suggesting changes  
2 as a result?

3 A I'm not aware of anyone, no.

4 Q Do you know if there are different  
5 practices put in place at Bristol as compared to,  
6 for instance, MCI-Shirley?

7 MR. KANWIT: Objection.

8 A I'm not aware, no.

9 Q Has there been any consideration of  
10 lessons learned from those outbreaks?

11 MR. KANWIT: Objection.

12 A I'm not aware. I'm not sure.

13 Q And just going back to the testing for a  
14 brief moment.

15 So we talked about the ICE detainees who  
16 have been tested. I believe you said there were  
17 four. Right?

18 A Correct.

19 Q So facility-wide, how many inmates and  
20 detainees have been tested for COVID-19?

21 A I wouldn't know the exact number.

22 Q Do you have a ballpark guess?

23 A Ballpark guess?

24 MR. KANWIT: No. Let me object. I don't

20 each other if they were 6 feet apart, in your

21 opinion?

22 A I don't know how the showering takes

23 place there. I haven't seen the bathrooms. I'm

24 not familiar.

Page 113

1 Q And what about in 2 East; is it okay for

2 multiple people to share a cell, I believe they're

3 30 by 10 feet?

4 A I would have to actually visually see it.

5 I can't just by dimensions visualize it. I

6 apologize.

7 Q That's okay. So you're just not sure if

8 people are able to socially distance within 2

9 East?

10 A I'd have to see the layout of the unit.

11 I -- I know the rec area where I've been, there's

12 plenty of room for them to social distance.

13 Q So they can socially distance in the rec

14 area. You but you can't offer an opinion whether

15 or not they can socially distance in their cells?

16 A I haven't seen their cells.

17 Q Understood.

18 MS. FONTAINE DOOLEY: Okay. I think

20 MR. KANWIT: Nothing further from me.

21 Thank you.

22 THE WITNESS: Thank you.

23

24

# EXHIBIT C

1 \*\*\*\*\*

REPORTER'S NOTE:

2

3 REALTIME ROUGH DRAFT: These  
4 stenographic notes are being translated  
5 instantaneously into their English equivalent  
6 through an automated process called realtime  
7 translation. The realtime draft is unedited and  
8 uncertified, and may contain untranslated  
9 stenographic symbols, and occasional reporter's  
10 note, a misspelled proper name and/or nonsensical  
11 word combinations. All such entries will be  
12 corrected on the final certified transcript. Due  
13 to the need to correct entries prior to  
14 certification, the use of this realtime draft is  
15 intended and should be used only for the purpose  
16 of augmenting counsel's notes, and not to use or  
17 cite in any courts/official proceeding.

18 Since this transcript is in uncertified  
19 rough draft form, please be aware that there may  
20 be a discrepancy regarding page and line number  
21 when comparing the rough draft and the final  
22 certified transcript.

23 \*\*\*\*\*

24

19 about these releases?

20 A I did. I did. I wanted to make them

21 aware. That's my job.

22 Q And has ICE inquired what Bristol is

23 doing regarding testing for COVID-19?

24 A They may have with -- as I said, with

ROUGH DRAFT - THOMAS HODGSON 5-5-2020

35

1 the superintendent.

2 Q And have they provided any

3 requirements?

4 A We have standard protocols; I'm sure

5 they're aware of it. If they had a problem with

6 it I'm sure they would have notified the

7 superintendent.

8 Q How do you communicate with ICE about

9 the number of civil immigration detainees that you

10 have at Bristol?

11 A I beg your pardon.

12 Q How do you communicate with ICE about

13 the number of civil immigration detainees that you

14 have at Bristol?

15 A Well, they're not all civil

16 immigration -- I don't think they're all civil

17 detainees. Some of them have -- are here on

18 criminal charges.

19 Q Let me rephrase the question.

20 How do you -- how do you communicate

21 with ICE about the immigration detainees?

22 A How do I personally?

23 Q Yes.

24 A I don't really. Other than the

ROUGH DRAFT - THOMAS HODGSON 5-5-2020

36

1 conversations I just relayed to you.

2 Q So other than conversations about

3 releases, you don't communicate with ICE about the

4 number of civil immigration detainees?

5 A No, I don't.

6 Q In your conversations with Brian, did

7 he ask you what Bristol is doing to protect

8 detainees from COVID-19?

9 A No.

10 Q So you never had any conversations with

11 him about COVID-19?

12 A No. Other than -- other than in

13 relation to the motivations to why they're being

14 released into the community, which is the COVID-19

15 release. That's the rationale for what apparently

16 the judges --

17 Q How do you communicate with ICE about

18 conditions in Bristol that might reduce your

19 capacity to hold detainees?

20 A The superintendent communicates with

21 ICE about the numbers.

22 Q So if the capacity of Bristol to

23 release the to hold detainees reduced, the

24 superintendent would have that conversation with

ROUGH DRAFT - THOMAS HODGSON 5-5-2020

37

1 ICE, correct?

2 A If they had to be reduced yes.

3 Q And would you direct him in how that

4 conversation went or is that under his authority?

5 A I'm not sure what you mean by

6 "conversation" and "reduced." You're saying if

7 the population is reduced would he speak to ICE

8 about the number he would have to --

9 Q If the capacity in Bristol to hold

10 detainees reduced, would he have a conversation

11 with ICE about that?

12 A Well, sure, he would have to tell them

13 we can't hold them.

14 Q And would you have a conversation with

15 ICE about that?



10 A No. He wouldn't need to in this case

11 with COVID-19. I'm paying very close attention to

12 what's going on in this case. So he --

13 Q So he hasn't had -- so he hasn't had

14 those conversations with you?

15 A I don't recall having any with him.

16 Q But no one else --

17 A There was no real sort of hey, we need

18 to have a meeting over the numbers because I can

19 see it. I'm very aware of it.

20 Q And no one else has had a conversation

21 about a reduction in capacity with you, correct?

22 A I'm sorry?

23 Q No one else -- no one else besides the

24 superintendent has had a conversation with you

ROUGH DRAFT - THOMAS HODGSON 5-5-2020

44

1 about a reduction in capacity over the past three

2 months?

3 A Other than my conversations with ICE

4 when I was concerned about the judges releasing

5 people back into the community.

6 Q Have you ever communicated something to

7 ICE about a reduction in capacity? Outside of

8 this context, have you ever in your history as

9 sheriff communicated a reduction in capacity to

10 ICE?

11 A I don't recall. I was always looking

12 for more.

13 Q And if you want -- but if you wanted to

14 recruit, if you wanted to bring in more detainees

15 you would have that conversation with ICE,

16 correct?

17 A Of course. If I wanted to increase the

18 capacity, of course.

19 Q And that -- as you just said, that's

20 what you've been looking for, correct?

21 A That's what I what?

22 Q That's what you've been looking for?

23 You've been looking to bring in more detainees,

24 correct?

ROUGH DRAFT - THOMAS HODGSON 5-5-2020

45

1 A Whatever we can do to collaborate with

2 our partners within the confines of our standards,

3 we do in the interest of public safety.

4 Q If ICE had more detainees and sent them

5 to Bristol right now you would be interested in

6 accepting them, correct?

7 MR. SADY: Objection.

1 Q Yes.

2 A No, I'm pretty good at -- I grew up  
3 with a family of 13 kids so I'm pretty good at my  
4 own communication.

5 Q All right. So I'm going to ask you, do  
6 you think that the release of detainees from  
7 Bristol County because of COVID-19 was necessary?

8 A We did not have any COVID-19 cases at  
9 the time people were released.

10 Q At the beginning of this case you had  
11 about 150 detainees in ICE; is that correct?

12 A I believe it was 148.

13 Q And you don't believe that it was  
14 necessary to release any of those people, correct?

15 A I felt that we could manage the  
16 population and much like we have with our county  
17 inmates who were actually in closer proximity than  
18 the detainees.

19 Q And in fact at that time Bristol could  
20 have accepted more ICE detainees, correct?

21 A I don't know what the capacity would  
22 have been at that time.

23 Q But it was unnecessary to release any  
24 detainees, correct?

8 that the population at Bristol County should be

9 reduced?

10 A Issued a policy that they should be

11 reduced?

12 Q That there should be fewer detainees,

13 that some detainees should be released.

14 A No, I issued no policy like that.

15 Q And let's turn to paragraph 7.

16 A Okay.

17 Q At present, no detainee has tested

18 positive -- detainee or staff member never has

19 tested positive for COVID-19. Is that statement

20 still true as of this date?

21 A That's not true. We have one that has

22 tested positive.

23 Q One that --

24 A Has no symptoms.

ROUGH DRAFT - THOMAS HODGSON 5-5-2020

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1 Q One --

2 A He was sent out to the hospital. When

3 he came -- when he was there they took his

4 temperature, it was I think 99, and they did a

5 COVID test and said that it was positive. But he

6 had no symptoms. And he's back. Back with us.

7 Q So by one, you mean one detainee,

8 correct?

9 A That's correct.

10 Q And have any staff members tested

11 positive?

12 A Yes, we've had staff members that have

13 tested.

14 Q How many?

15 A I believe, don't hold me to the number,

16 it's somewhere around eight.

17 Q And what were their positions?

18 A Two nurses, I believe the rest were

19 correction officers. I believe.

20 Q Do you think that there are more staff

21 who are positive that you may not know about?

22 A That's speculative. I wouldn't know.

23 Q For the detainee that tested positive,

24 how long has that detainee been at Bristol?

ROUGH DRAFT - THOMAS HODGSON 5-5-2020

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1 A He's been with us, I think, since

2 November.

3 Q And what unit was he in?

4 A I don't -- I'm not sure.

5 Q Was he -- strike that.

6 Are there any people in the pretrial

7 wing that have tested positive?

8 A Pretrial meaning inmate?

9 Q Yes. In nonimmigration detention that

10 have tested positive.

11 A For pretrial?

12 Q Yes.

13 A Not to my knowledge.

14 Q And what about sentenced inmates?

15 A There's one sentenced inmate an

16 82-year-old that just recently tested positive.

17 He also has no symptoms.

18 Q So neither of the two people that --

19 neither of the -- neither the detainee or the

20 inmate who have tested positive had symptoms,

21 correct?

22 A That's correct. And they're here with

23 us.

24 Q And so you could be positive for a

ROUGH DRAFT - THOMAS HODGSON 5-5-2020

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1 COVID-19 --

2 A If I could just interrupt a minute. He

3 also was at the hospital being treated for a

4 colitis or some other kind of thing before he came

4 question?

5 Q Sure.

6 For the detainee that tested positive,  
7 did Bristol County Sheriff's Office engage in  
8 contacts tracing to determine how he might have  
9 been infected?

10 A Yes. Yeah, that's all -- I'm sorry, I  
11 focused on the officers but it would be the same  
12 for the detainees. We would look at who were they  
13 in close proximity to. Even with the other  
14 detainees, we -- you know, who had any close  
15 contact with them for any extended period of time,  
16 we would be looking to do that.

17 Keep in mind you know, these questions  
18 are really important because it really underscores  
19 my whole point about, you know, our  
20 responsibility. My responsibility is to be as  
21 vigilant as we can to make sure no other detainees  
22 get -- you know, contract the disease or my staff.  
23 You know, that's a big, big, obligation for all of  
24 us and we all recognize the importance of it.

ROUGH DRAFT - THOMAS HODGSON 5-5-2020

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1 So we would absolutely monitor

2 everything we could to find out -- you know, to

3 prevent somebody from spreading it more if they  
4 were in close contact with that person, make sure  
5 we take the right CDC protocol steps.

6 Q So this detainee has been in Bristol  
7 since November, correct?

8 A That's correct.

9 Q And so fair to say that he contracted  
10 COVID-19 in Bristol County, correct?

11 A Likely.

12 Q And fair to say others that he has come  
13 in contact with may have it, correct?

14 A That's provided that the test is  
15 accurate.

16 Q Uh-huh. And fair to say that others  
17 may have it as well, correct?

18 A No. That's not fair to say.

19 Q Okay. And he's -- he is not exhibiting  
20 any symptoms, correct?

21 A He is not what?

22 Q He is not exhibiting symptoms, correct?

23 A That's correct.

24 Q And where is he currently housed?

ROUGH DRAFT - THOMAS HODGSON 5-5-2020

1 A He's in -- I think he's in isolation



3 prevent somebody from spreading it more if they  
4 were in close contact with that person, make sure  
5 we take the right CDC protocol steps.

6 Q So this detainee has been in Bristol  
7 since November, correct?

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10 COVID-19 in Bristol County, correct?

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13 in contact with may have it, correct?

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15 accurate.

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17 may have it as well, correct?

18 A No. That's not fair to say.

19 Q Okay. And he's -- he is not exhibiting  
20 any symptoms, correct?

21 A He is not what?

22 Q He is not exhibiting symptoms, correct?

23 A That's correct.

24 Q And where is he currently housed?

ROUGH DRAFT - THOMAS HODGSON 5-5-2020

1 A He's in -- I think he's in isolation

2 right now.

3 Q Okay. And the inmate who also tested

4 positive, he's not exhibiting any symptoms,

5 correct?

6 A That's my understanding.

7 Q And so it is possible to have COVID-19

8 and not exhibit any symptoms, correct?

9 A I think we already went through this.

10 That's for everybody no matter where you are.

11 Q Right. And so there may be people in

12 Bristol that have COVID-19 but are not exhibiting

13 symptoms, correct?

14 A That's very possible.

15 Q And not everyone -- not every detainee

16 or inmate has been tested; is that correct?

17 A That's correct. But to your point, you

18 know, when we go into the grocery store I bet you

19 99 percent of those people weren't tested either

20 and nor should they be in DPH and CDC have

21 recommended against testing universally for

22 COVID-19 in the prisons.

23 Q I'm going to mark --

24 A Pardon?

ROUGH DRAFT - THOMAS HODGSON 5-5-2020

# EXHIBIT D



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# Transcript of Steven Souza, Corporate Representative

**Date:** May 1, 2020

**Case:** Savino, et al. -v- Hodgson, et al.

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

- - - - -x

MARIA ALEJANDRA CELIMEN SAVINO, : Case No.  
JULIO CESAR MEDEIROS NEVES, and : 1:20-cv-10617-WGY  
all those similarly situated, :

Petitioners-Plaintiffs, :

v. :

THOMAS HODGSON, Bristol County : DEPOSITION OF  
Sheriff in his Official :  
Capacity; STEVEN J. SOUZA, : STEVEN SOUZA  
Superintendent Bristol County :  
House of Corrections in his : CORPORATE REPRESENTATIVE  
Official Capacity; TODD :  
LYONS, Boston Field Office, : CONDUCTED VIRTUALLY  
Acting Director, Immigrations :  
and Customs Enforcement in his : Friday, May 1, 2020  
Official Capacity; CHAD F. :  
WOLF, Acting Secretary, : 7:07 a.m. PT  
Department of Homeland :  
Security, in his Official :  
Capacity; MATTHEW T. ALBENCE, :  
Deputy Director and Senior :  
Official Performing the Duties :  
of the Director for U.S. :  
Immigration and Customs :  
Enforcement, in his Official :  
Capacity; and U.S. IMMIGRATION :  
AND CUSTOMS ENFORCEMENT, :

Respondents-Defendants. :

- - - - -x

Job No.: 297502

Pages: 1 - 346

Reported By: Charlotte Lacey, RPR, CSR No. 14224

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

1 cells, are there sinks in those cells?

2 A. No.

3 Q. No. Okay. If not, how often are those  
4 individuals permitted to go to the bathrooms to  
5 use the sink?

6 A. They are dormitory-style doors, so they  
7 can exit their cell at any time. There is no  
8 restriction on them going to the bathroom, as well  
9 as washing their hands. During the lockdown, when  
10 there is a count being taken, there would be no  
11 one allowed when the count is being taken, but  
12 after that, they are allowed to go to the restroom  
13 at any time.

14 Q. So aside from when the count is being  
15 taken, they can go to the bathrooms and use the  
16 sink at any time; is that correct?

17 A. That's correct.

18 Q. And they don't have to gain permission  
19 during those times?

20 A. Correct.

21 Q. Okay. Has the ability for detainees to  
22 wash their hands changed at all since the  
23 beginning of this lawsuit?

24 A. I don't know what you mean by "the

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

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1 codes is the only time that the correction  
2 officers are not able to be a full 6 feet away  
3 from each of the detainees?

4 A. Again, they have to make their rounds.  
5 If there happens to be a detainee walking into the  
6 bathroom and they may be near the correctional  
7 officer, or when the correction staff are making  
8 their security rounds, if a -- if a detainee or an  
9 inmate are, you know, on their bunk, it may be  
10 closer within the -- the 6 feet, but it's -- it's  
11 not a prolonged time.

12 It's incidental, like passing through a  
13 hallway or passing by, you know, a table that a  
14 detainee may be sitting at, or opening a -- a -- a  
15 door and the detainee's walking through the door.

16 Q. Right. So there are times at which  
17 they'll, you know, pass through during their  
18 normal workday when they might come within the  
19 6 feet?

20 A. Yes.

21 Q. And that's unavoidable?

22 A. Correct.

23 Q. Okay. And are there any written  
24 protocols to help the correction officers stay the

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

1 serving the meals into their food trays that they  
2 may not be 6 feet apart, they have the PPEs on,  
3 where they have the gloves, they have the masks,  
4 they have the hairnets, or a baseball cap on is  
5 what they have.

6 Q. And you mentioned the inmates in the  
7 kitchen. Is the makeup of individuals going into  
8 the kitchen each day different?

9 A. There's three shifts of inmates that go  
10 into the kitchen, and they're all the same  
11 inmates, but three separate shifts of inmates. So  
12 we may have a total of, say, 40 inmates that work  
13 in the kitchen during three specific shifts, so  
14 two shifts, depending on how they work it with  
15 what meals are being prepared.

16 Q. Okay. And while in the kitchen, each of  
17 them is given a mask, a set of gloves, a hairnet,  
18 and any other personal protective equipment?

19 A. I don't believe so.

20 Q. And is there any repercussion for not  
21 wearing that protective equipment while in the  
22 kitchen?

23 A. If they're not wearing the protective  
24 equipment, then they potentially would be fired



Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

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1 A. I don't know specifically a date.

2 Q. Okay. Is it fair to say that the signs  
3 have stayed fairly consistent over the last month  
4 or so?

5 A. I would say pretty consistent.

6 Q. Okay. And just to be clear, we talked  
7 about this a bit earlier. But there have not been  
8 any steps taken to enforce the protocols, and what  
9 I mean by that is no one's been reprimanded for  
10 coming within 6 feet of another person; is that  
11 correct?

12 A. That's correct.

13 Q. Okay. Moving back to Exhibit 29.

14 MR. BROWN: Can we get Exhibit 29 on the  
15 screen, Miles?

16 AV TECHNICIAN: Yes. Sorry. One  
17 second.

18 Q. No worries. And under the "Avoid close  
19 contact" header, do you see where it says "Keeping  
20 distance from others is especially important for  
21 people who are at higher risk of getting very  
22 sick"?

23 A. Yes.

24 Q. All right. What, if any, protocols

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

1 exist at Bristol to ensure detainees who have  
2 existing medical conditions can keep distance --  
3 can keep distance from the correction officers?

4 A. Anyone that would be an issue of being  
5 very sick would be housed within medical.

6 As far as the individuals that are  
7 within the housing units, where the detainees are  
8 located and staff, basically, again, practicing  
9 social distancing, making sure the staff are  
10 wearing their masks, making sure the inmates and  
11 detainees are wearing their masks, and avoiding  
12 physical contact unless security purposes or  
13 transportation purposes are necessary.

14 Q. So unless a detainee is in the medical  
15 for immediate attention, then individuals who, for  
16 example, have diabetes, is there a separate  
17 protocol for making sure they can socially  
18 distance?

19 A. No.

20 Q. The next header in Exhibit 29 is  
21 entitled "Cover your mouth and nose with a cloth  
22 face cover when around others." Do you see that?

23 A. Yes.

24 Q. When did you first learn about the CDC's

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

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1 Q. And how many have been reprimanded for  
2 not wearing their masks?

3 A. I would say maybe half a dozen or so.

4 Q. And take me through those. What happens  
5 when someone's reprimanded for not wearing their  
6 mask?

7 A. Basically they would be issued either an  
8 informal D report or a formal D report and not  
9 allowed to come out of their cell, except for  
10 bathroom purposes. They would be fed within their  
11 cell. They would not be allowed to go out to  
12 recreate in the day room area or the outside rec  
13 yard.

14 Q. And how long would that last for?

15 A. It could be a day, it could be two days,  
16 depending on the severity of the infraction. If  
17 it was just, you know, "I'm not wearing it. I  
18 don't come out of my cell, fine," versus becoming  
19 belligerent and/or assaultive to staff would be  
20 different determination on length of time.

21 Q. And you said a dozen. Does that  
22 represent all of the times in which detainees were  
23 not wearing their masks outside of their bunks?

24 A. I said about a half a dozen or so,

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

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1 Q. How many masks do you have in storage?

2 A. Probably 2,000.

3 Q. Probably 2,000. And which types of  
4 masks are those?

5 A. I have KN95s. I have N95s. I have  
6 surgical masks. I have different -- couple of  
7 different types of surgical masks, actually.

8 Q. And about what percentage of the  
9 correction officers are wearing the surgical  
10 masks?

11 A. I don't know because there's three  
12 shifts, and I'm not there for all three shifts to  
13 know.

14 Q. Okay. And so you wouldn't know what  
15 percentage are wearing the N95 or the KN95 as  
16 well?

17 A. Correct.

18 Q. And what is EMA?

19 A. MEMA.

20 Q. NEMA. Thank you.

21 A. MEMA with an "M." M-E-M-A.

22 Q. And what does MEMA stand for?

23 A. Massachusetts Emergency Management  
24 Association.

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

1 MR. KANWIT: Good.

2 Q. Does Bristol provide detainees with  
3 masks?

4 A. Yes.

5 Q. How many masks per detainee?

6 A. Each detainee and inmate were issued one  
7 cloth mask, which is washable, and there's a  
8 protocol in place for washing them, and if there  
9 is a need for additional masks, we will issue out  
10 a surgical mask.

11 Q. And you say "if there's a need for an  
12 additional mask," and that's if the particular  
13 inmate requests that mask?

14 A. If the individual requests it, if there  
15 is a specific need that theirs happens to be in  
16 the wash and they're going to the outside rec yard  
17 or they're leaving their cell or theirs broke, we  
18 would issue them a new mask if theirs broke, and  
19 we would have alternative surgical masks available  
20 if needed.

21 Q. Okay. Let's turn to Exhibit 35.

22 AV TECHNICIAN: Please stand by.

23 Q. Mr. Souza, do you recognize this  
24 document?

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

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1 A. That, I -- I don't have exact numbers on  
2 those.

3 Q. Okay. And respirators?

4 A. We do not carry respirators.

5 Q. Eye protection?

6 A. We have probably over 150, maybe 200  
7 goggles, and then there are some face shields that  
8 we also have, and we do have some that are on  
9 order as needed.

10 Q. Okay. And do you know exactly how many  
11 pairs of those you have?

12 A. Not off the top of my head 'cause  
13 medical also has their own supply.

14 Q. And who is that eye protection being  
15 supplied to?

16 A. The eye protection would be supplied to  
17 any staff person that needs it based on where they  
18 were working or what they were -- or who they were  
19 working with.

20 Q. Okay. But not to the detainees?

21 A. No.

22 Q. Okay. And you mentioned earlier you had  
23 some gloves.

24 Does each -- does each detainee receive

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

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1 gloves?

2 A. No. They would utilize gloves for --  
3 for when they're doing cleaning or passing out  
4 meals or anything, but they're not issued gloves  
5 as a general.

6 Q. So they would have to request gloves for  
7 each of those jobs?

8 A. Yes.

9 Q. Okay. And what about a supply of  
10 disposable gowns or coveralls?

11 A. The sheriff's office has some, and the  
12 medical department also has some. I believe we  
13 have about 200 currently. There are more on  
14 order, and I'm not sure what medical has for their  
15 supply.

16 Q. Okay. And do you know how many swabs  
17 medical currently has?

18 A. I do not.

19 Q. Okay. Turning to Exhibit 30. If we go  
20 to page 2, there's a section titled "What should I  
21 do if I might have been exposed, if I feel sick,  
22 or have confirmed COVID-19?"

23 Mr. Souza, do you see that section?

24 A. Yes, I do.

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

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1 the ones that are monitoring to make sure that at  
2 least seven days have passed since the date of the  
3 first positive test?

4 A. Yes.

5 Q. Okay. And in -- in -- in the case of  
6 increased need for testing, do you know how many  
7 total single cells there are that could isolate  
8 individuals?

9 A. We can make adjustments to those  
10 specific housing units that were documented in the  
11 -- in that other document. We originally start  
12 with the four cells in medical, if they're  
13 available. We then go to our EE unit, which has  
14 16, and then we would progress from there.

15 Q. Okay. What protocols are in place for  
16 testing the new arrivals?

17 A. Only if they're symptomatic, they would  
18 be tested. If they're not symptomatic, they would  
19 be isolated in a specific housing unit for at  
20 least 14 days before we introduce them into the  
21 general population.

22 Q. Okay. So new arrivals who are not  
23 symptomatic, are not tested on arrival; that's  
24 correct?



Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

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1 A. Correct.

2 Q. How many new arrivals have been tested?

3 A. I have no idea.

4 Q. Okay. And so you wouldn't know if any  
5 of those tests have been positive?

6 A. No.

7 Q. Okay. Are new arrivals -- and you said  
8 new arrivals are being quarantined; is that  
9 correct?

10 A. They're being isolated.

11 Q. Isolated. And so where -- when each of  
12 those are isolate -- when each of those  
13 individuals are isolated, who do they come in  
14 contact with?

15 A. As with the production of documents,  
16 there were two -- two housing units that were  
17 originally designed for new commitments. Females  
18 are in one particular unit. The males were  
19 originally in GC, and now we have turned it over  
20 to our FB unit, and they would be placed into  
21 single cells within that FB unit.

22 Q. What does the "FB unit" stand for?

23 A. FB is just the acronym for that  
24 particular housing unit.

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1 could be once every two to three weeks, depending  
2 on what else I'm working on. As I expressed, I  
3 have a vast -- I oversee a vast number of  
4 departments and divisions.

5 Q. Understood. When was the last time you  
6 were at Unit A?

7 A. I believe it was probably about maybe  
8 three weeks ago, four weeks ago.

9 Q. Okay. So three or four weeks ago when  
10 you were there, how long were you there for?

11 A. I was probably there for an hour or  
12 more.

13 Q. Okay. How many individuals are  
14 currently held in Unit A?

15 A. I believe there are 11. That's off the  
16 top of my head. I mean, we have got many units,  
17 so just off the top of my head, I believe 11.

18 Q. 11 units. And of those, how many are  
19 inmates?

20 A. In -- in A?

21 Q. In A.

22 A. No inmates. Only detainees.

23 Q. No -- okay. And so of the  
24 immigration -- of the 11, all of them are

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1 Kanwit.

2 Q. From Attorney Kanwit. Okay. The  
3 drawing on the first page is titled -- can we  
4 scroll up to the first page of this document.

5 The drawing on the first page is titled  
6 "ICE Unit A, as-is." What is the drawing on the  
7 first page intended to represent?

8 A. The rows of bunks, and the Xs, I  
9 believe, are representative of how many  
10 individuals are assigned to the set of bunk beds.

11 Q. Okay. So just to make sure I understand  
12 this, the white squares are intended to represent  
13 the bunks?

14 MR. KANWIT: Objection. He didn't  
15 create the document, so you shouldn't be asking  
16 about his intent.

17 Q. Is it your understanding, looking at  
18 this document, that the white squares indicate the  
19 bunks?

20 A. Yes, I believe so.

21 Q. And then the gray squares indicate the  
22 aisles?

23 A. Yes, where it's labeled "aisles."

24 Q. Yep. And this actually -- accurately

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1 you see that?

2 A. Yes.

3 Q. And that individual, if they had to get  
4 up in the middle of the night and go to the  
5 restroom, they would have to pass by another  
6 individual in order to do so; is that correct?

7 A. Correct.

8 Q. And they'd come within 6 feet of that  
9 other individual?

10 A. Correct.

11 Q. Okay. How often are you in Unit B?

12 A. About the same time that I would be in  
13 Unit A.

14 Q. Okay. When was the last time you were  
15 in Unit B?

16 A. About the same time as Unit A. I  
17 usually go to one building and -- and go to all  
18 the units within that one particular building.

19 Q. Okay. And last time you were in Unit B,  
20 how long did you spend there?

21 A. Probably an hour or more.

22 Q. How many individuals are currently  
23 housed in Unit B?

24 A. I believe there's 26, but I would have

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1 to look at the exact count. But I believe there  
2 was 26.

3 Q. So as of today, you believe there are 26  
4 individuals?

5 A. I believe so.

6 Q. And do you know how many of those are  
7 inmates?

8 A. There are no inmates in the ICE  
9 building.

10 Q. You cut out for me. Sorry. So there  
11 are no inmates; am I correct?

12 A. There are no inmates in ICE A or ICE B,  
13 strictly detainees.

14 Q. So that would be 26 detainees. Why are  
15 there different numbers between the individuals in  
16 Unit A and Unit B?

17 A. Based off of their classification.

18 Q. And walk me through that. How does that  
19 classification impact where they're housed?

20 A. The classification is submitted through  
21 immigration. Level 1s and level 2s can be housed  
22 together. Level 2 and level 3 can be housed  
23 together. But a level 3 and a level 1 cannot be  
24 housed together.

Transcript of Steven Souza, Corporate Representative  
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1 Q. And there's no cells in Unit B, correct?

2 A. That's correct.

3 Q. Can we scroll to the third page of this  
4 document, and the third page is titled "Unit B  
5 as-is."

6 A. Yep.

7 Q. Do you have any reason to believe this  
8 is not an accurate representation of the sleeping  
9 arrangements in Unit B as of April 14, 2020?

10 A. I have no reason to believe that it's  
11 not.

12 Q. Okay. And looking at this, you don't  
13 know where the entrances or exits to Unit B are?

14 A. Correct.

15 Q. Okay. So the image here shows five rows  
16 of beds, correct?

17 A. Correct.

18 Q. And there are 33 beds total?

19 A. Correct.

20 Q. 33 bunks total?

21 A. Excuse me?

22 Q. There are 33 bunks total?

23 A. 33 double bunks.

24 Q. Right. And in this image, 20 were used?

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1 A. I don't know what the count was on  
2 there.

3 Q. Okay. But you -- as of today, you  
4 understand 26 individuals to be sleeping here?

5 A. Correct.

6 Q. And so the same thing here in Unit B,  
7 when sharing a bunk, there's a 3-foot distance  
8 between bodies when each person's lying directly  
9 flat?

10 A. Correct.

11 Q. And so less of a distance if one of them  
12 sits up in the night?

13 A. Correct.

14 Q. As you understand it, have the  
15 individuals in Unit B been rearranged since  
16 April 14th?

17 A. I believe so, because of the -- as the  
18 count reduces or changes, they make adjustments to  
19 the --  
20 the -- the sleeping arrangements.

21 Q. Okay. Moving on to the -- the next page  
22 of this exhibit, and you see this is titled "Unit  
23 B Ideal"?

24 A. Yes.

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1 document are accurate representations of how  
2 people sleep?

3 A. I have no idea.

4 Q. Okay. How often are you at the EB unit?

5 A. About the same time as the going to the  
6 ICE -- ICE A or ICE B.

7 Q. And do you know when the last time is  
8 you were in the EB unit?

9 A. Probably about four weeks ago.

10 Q. About four weeks ago.

11 And the EB unit doesn't stand for  
12 anything, "EB" is just the acronym that's used?

13 A. Just acronyms.

14 Q. Okay. And last time you were there, do  
15 you remember about how long you were there for?

16 A. Maybe half hour.

17 Q. How many ICE detainees are in the EB  
18 unit?

19 A. Today, I believe there were five.

20 Q. You believe there were five.

21 And how many criminal inmates?

22 A. Maybe six. Five or six.

23 Q. Okay. So about 11 individuals who are  
24 held in the EB unit?



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1 shower and individual standing in another shower.

2 A. There -- there's -- there's walls, and  
3 there's complete -- it's -- it's complete isolated  
4 showers. There's a door to walk into, and then  
5 it's a shower, and there's four walls within that  
6 shower. And then next door next to it is -- is,  
7 again, four walls. So they're complete isolated  
8 showers.

9 Q. Okay. They're completely isolated  
10 showers.

11 And how about the toilets, are those  
12 completely isolated, or is there sort of a vent on  
13 top of the separator?

14 A. There's -- there's stalls.

15 Q. There's stalls. And the shower rooms,  
16 are they ventilated?

17 A. Yes, they are.

18 Q. They are. When was the last -- oh.  
19 How often are you in the 2 East unit?

20 A. Again, roughly around the same time  
21 frame.

22 Q. And that's the same for the last time  
23 that you were at the 2 East unit?

24 A. Probably four to five weeks at the

Transcript of Steven Souza, Corporate Representative  
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1 2 East unit.

2 Q. And how long were you there  
3 approximately the last time you were there?

4 A. I was there probably for about  
5 45 minutes maybe.

6 Q. About 45 minutes?

7 A. Yes.

8 Q. And in your declaration, you represented  
9 that there were 54 males housed in this unit.

10 Do you know if that's still the case?

11 A. I believe there's 45 currently.

12 Q. 45 currently.

13 And what's the cause in that reduction?

14 A. Releases through ICE and/or releases  
15 through the pretrial inmates.

16 Q. And of the 45, how many are detainees?

17 A. I believe there are 36, maybe, that are  
18 detainees. 35, 36 maybe.

19 Q. Okay. And the others are inmates,  
20 correct?

21 A. Correct.

22 Q. Of the 36, they're divided into eight  
23 cells; is that correct?

24 A. There's a total of 13 cells in that

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1 unit. I believe they are divided into -- I  
2 believe there's eight cells. I would have to look  
3 at my declaration to be specific.

4 Q. And -- but those cells would have about  
5 four to five individuals each?

6 A. I believe there's -- right now, there's  
7 a maximum of five, but generally four and five are  
8 currently in there.

9 Q. Generally four or five. Okay. And each  
10 cell contains four double-bunk beds; is that  
11 correct?

12 A. Yes, correct.

13 Q. Okay. So each of the cells is  
14 identical?

15 A. Yes.

16 Q. So that would mean that currently, at  
17 least one person in some of the cells are sharing  
18 a bunk, right?

19 A. Yes.

20 Q. Okay. And those bunks are the same as  
21 the ones in Unit A and B; is that correct? The  
22 same type of bunk bed?

23 A. Yeah, same type of bunk bed, correct.

24 Q. Okay. So for anyone sharing a bunk,

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1 you -- how you got that measurement and where the  
2 measurement is coming from.

3 A. Okay. So if the -- if the bunk bed  
4 itself is 6 feet long or 7 feet in length, if the  
5 detainee's head is on the left-hand side of the  
6 bunk, the next detainee's head would be on the  
7 complete opposite side, so it would be -- the head  
8 would be on one location, the feet would be facing  
9 the another location. So that there's that  
10 distance.

11 Q. And that's between bunks on the -- on  
12 the same side of the wall, am I understanding this  
13 correctly?

14 A. Correct.

15 Q. Okay. And so -- and you're measuring,  
16 again, between the individuals' heads, not  
17 necessarily between, say, the head and the feet of  
18 the next person?

19 A. Correct.

20 Q. For those individuals sharing a bunk,  
21 you represent that the head of one detainee is  
22 over the feet of the other detainee. No  
23 detainee's head is closer to another detainee's  
24 head than 6.7 feet. Is that still correct?

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1 A. Yes.

2 Q. And so in those instances, the bodies of  
3 individuals sharing the bunk are actually 3 feet  
4 apart; is that right?

5 A. What do you mean by "3 feet apart"?

6 Q. So for -- I understand that an  
7 individual sharing a bunk that will be lying in a  
8 different direction than the other individual  
9 sharing that bunk and that, therefore, you've  
10 represented that there will be a distance between  
11 the detainees' heads, correct? That's the 6.7  
12 feet measures between the heads?

13 A. I don't know the exact measurement, but,  
14 yes, it would be between the heads.

15 Q. Okay. And for those individuals sharing  
16 the bunk, if we are actually measuring just, say,  
17 between the feet of the -- of one detainee and  
18 head of another detainee, that distance is 3 feet,  
19 correct?

20 A. No, because if the bunk is 6 feet or  
21 7 feet long, the detainee's head on the top would  
22 be on one end, and the detainee's head on the  
23 bottom bunk would be the opposite direction.

24 Q. Correct. But if we're not just

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1 measuring between the heads and, say, we measure  
2 between the foot of one detainee and the head of  
3 the other, that is less than 6 feet, correct?

4 A. Up and down, it would be, yes.

5 Q. Up and down, it would be. And, again,  
6 the measures in your declaration are correct when  
7 the detainees are asleep laying down; that's  
8 correct?

9 A. Yes.

10 Q. And so that measurement will change as  
11 they get up in the middle of the night?

12 A. Correct.

13 Q. Why is it that your representation in  
14 your declaration measured just between the heads  
15 of individuals?

16 A. Just based off of how we set them up to  
17 be head to toe and toe to head. And then the  
18 measurements, again, I had somebody measure the  
19 length of the bunks, the height of the bunks, but  
20 that's what was recorded.

21 Q. Understood. And so for the 2 East unit,  
22 how much time do each of the detainees spend per  
23 day in their cells?

24 A. It varies. Some stay longer in their

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1 stalls, there's a set of urinals, and there's a  
2 set of sinks.

3 Q. So take Unit A, in that bathroom, how  
4 many sinks are they -- are there?

5 A. I don't know specifically. It would be  
6 in my declaration as to exactly how many are  
7 located in that area.

8 Q. Okay. So in your declaration, if you  
9 represented that there were eight sinks in that  
10 bathroom, does that sound correct?

11 A. Potentially, yes.

12 Q. And for the showers in Units A and B,  
13 would you also rely on the number in your  
14 declaration, which is six?

15 A. That's correct.

16 Q. Okay. And for urinals, there were  
17 three?

18 A. Correct.

19 Q. Okay. And you represent -- and you  
20 represented that there were six toilets in Units A  
21 and B in your declaration. Is that still the  
22 case?

23 A. Yes.

24 Q. How far apart is each sink in each of

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1 those bathrooms?

2 A. I don't know off the top of my head.

3 Q. Okay. And is the shower -- are the  
4 showers the same setup that we've talked about for  
5 the unit previously?

6 A. It's a little different as they don't  
7 have a solid door. But there are three walls.  
8 And then the entrance, which is -- has a shower  
9 curtain on it, but then each one is individual  
10 shower stalls. It's non-communal.

11 Q. Okay. And there's the -- the curtain is  
12 what separates one individual from the next?

13 A. No. It separates you from the outside  
14 of the shower to step into the shower.

15 Q. I see. So you walk into the curtain,  
16 and then there are walls on either side of you.

17 A. Correct.

18 Q. And do those walls go all the way up to  
19 the ceiling?

20 A. Yes, they do.

21 Q. Okay. And how far apart are the  
22 different urinals?

23 A. I don't know the exact measurement.

24 Q. And what about the toilets?



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1 A. They're in stalls. I don't know what  
2 the exact measurements are.

3 Q. Same stalls that have the partial  
4 divider with the ventilation at the top?

5 A. Yes, I believe so.

6 Q. And there's no strict number on the  
7 amount of people who can use each bathroom at any  
8 one time, correct?

9 A. Again, we try to limit it with the  
10 social distancing and with the postings that are  
11 up, but, again, there could be someone that's in  
12 the shower and then go over to the bathroom side.  
13 So we try to limit as much as possible, but, you  
14 know we don't want to get into not allowing them  
15 to utilize the facilities either.

16 Q. And so it's a common occurrence for each  
17 shower to be used at the same time, correct?

18 A. Not each shower, but individual showers,  
19 yes.

20 Q. But for all other showers to be used at  
21 the same time?

22 A. That's a possibility, yes.

23 Q. And same thing for the sinks?

24 A. It could be.

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1 Q. And for the toilets?

2 A. It's possible.

3 Q. How frequently are detainees given soap  
4 and shampoo for showering purposes?

5 A. They can purchase from canteen weekly.  
6 They also -- the -- anybody that's indigent would  
7 be given weekly indigent kits which would give  
8 them a bottle of three-in-one, which is soap,  
9 shower, body wash. And then there's also the soap  
10 dispensers on the wall where the sinks are.

11 Q. And so separate and apart from meeting  
12 the indigency requirements, you would have to  
13 purchase your shampoo; is that correct?

14 A. Correct.

15 Q. Okay. And you represented earlier that  
16 the soap in the communal area is replaced whenever  
17 that is empty?

18 A. That's correct.

19 Q. And do you know how much of a supply of  
20 that soap you have on hand?

21 A. I'm told that we have enough supply of  
22 hand soap.

23 Q. And that, to your knowledge, has never  
24 been watered down?

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1 A. That's correct.

2 Q. And there are no professional cleaners  
3 that come into the bathrooms in Unit A and B?

4 A. No.

5 Q. So it's the detainee and staff  
6 workforces we talked about earlier that would be  
7 cleaning those units.

8 A. That is correct.

9 Q. And are they given personal protective  
10 equipment when they're cleaning?

11 A. They are given --

12 MR. KANWIT: Objection; asked and  
13 answered. We've been there through this.

14 Q. You can answer the question.

15 A. They're given gloves. And if they need  
16 anything further, they will be given the items  
17 needed.

18 Q. Can you describe the process by which  
19 food is delivered to Bristol? Actually, delivered  
20 to the facility to the kitchens?

21 A. As I stated in the declaration,  
22 they're -- they come through delivery trucks.  
23 They are -- the items are dropped off at our  
24 shipping and intake area or the loading dock for

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1 Q. And you submitted this and signed it on  
2 the 23rd of April 2020?

3 A. Whatever the date that's on there.

4 Q. The date at the bottom, can you take a  
5 look at that, and let me know if that's the 23rd  
6 of April?

7 A. Yes.

8 Q. You present in this declaration that all  
9 meals are prepared in two shifts; is that correct?

10 A. Correct.

11 Q. The first is comprised of about 20  
12 individuals plus a correction officer who  
13 oversees; is that correct?

14 A. That's correct.

15 Q. And the second, comprised of about 13 to  
16 15 detainees, two staff members, and a corrections  
17 officer to oversee; is that correct?

18 A. Not detainees. They would be sentenced  
19 inmates.

20 Q. Those are -- so the second shift is --  
21 those would be sentenced inmates.

22 A. All of the kitchen workers are sentenced  
23 inmates. We don't have detainees or pretrial  
24 inmates working in the kitchen.

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1           A.    They are -- they're called up to the  
2 meal cart practicing social distancing to collect  
3 their tray.

4           Q.    And when you said "practicing social  
5 distancing," what do you mean by that?

6           A.    I mean that I don't have everybody right  
7 in a row, that we have people -- we call so many  
8 people up distanced apart to receive their tray.  
9 Then they go and sit at a table or take it back to  
10 their cell or bunk.

11          Q.    And which individual is actually handing  
12 off their tray to them?

13          A.    It could be a staff person, or it could  
14 be a volunteer worker.

15          Q.    Okay.  And they're less than 6 feet from  
16 that person when receiving their meal, correct?

17          A.    A hand's distance away.

18          Q.    Oh, you cut out from me then -- from  
19 there.

20          A.    Arm's length to hand out the tray.

21          Q.    Arm's length to hand out the tray,  
22 correct?

23          A.    Right.  Arm's length to arm's length to  
24 hand out a tray.

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1 Q. And this process is repeated three times  
2 a day for breakfast, lunch, and dinner?

3 A. That's correct.

4 Q. Detainees can choose to eat their meals  
5 in their bunk or at their table; is that correct?

6 A. That's correct. We normally have them  
7 stay at the tables to eat, but to create social  
8 distancing and not have everybody in one location,  
9 we've allowed them to either take it back to their  
10 cell to eat on their bunk or at the desk, if they  
11 happen to have a cell. Or if they're in the ICE  
12 building and it's just bunk beds, they're able to  
13 sit on their bunk and eat it, or they can eat at  
14 the table in shifts.

15 Q. Okay. And it's their choice as to which  
16 of those they do?

17 A. That's correct.

18 Q. Are detainees provided sanitary wipes to  
19 clean the containers once they're handed their  
20 meals?

21 A. I'm sorry. I missed that.

22 Q. No worries.

23 Are detainees provided sanitary wipes  
24 ever to clean the containers once they're handed

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1 their meals?

2 A. No.

3 Q. Because as we talked about earlier,  
4 those are not available, correct?

5 A. Those wipes are for staff to clean the  
6 control areas and the computers and so forth.

7 Q. Understood. Your declaration provides  
8 that once meals are complete, dishes are returned  
9 to the kitchen for cleaning and sanitizing.

10 Who does that cleaning and sanitizing?

11 A. The inmate kitchen workers.

12 Q. And the products they use are the  
13 products we talked about earlier?

14 A. They're specific cleaning materials with  
15 the dishwasher and within the scullery area where  
16 the -- all the carts go back to, and all the trays  
17 are cleaned through the dishwasher, and they're  
18 dried, and then the carts are all wiped down with  
19 the materials that we discussed earlier.

20 Q. Okay. And then -- and then the --  
21 sorry. The first part of that statement?

22 I understand from the dishwasher on, but  
23 what products are used between pickup of the  
24 containers to reaching the dishwasher?

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1           A.    Basically we're all following the CDC  
2           and DPH guidelines.  Each facility runs  
3           differently.  Each county runs differently based  
4           off of their types of facilities, their population  
5           of their facility, their layout of their facility.

6           Q.    What's the factual basis for your  
7           statement that maximum steps have been taken to  
8           minimize the risk of a COVID-19 infection and any  
9           spread?

10          A.    I'm sorry.  I missed the first part of  
11          that question.  You cut out.

12          Q.    What is the factual basis for your  
13          statement that maximum steps have been taken to  
14          minimize the risk of a COVID-19 infection and any  
15          spread?

16          A.    Basically by following the guidelines  
17          that are set up and following our procedures that  
18          we put together for isolation and containment and  
19          also for social distancing and educating the  
20          detainees and the staff and the inmate relative to  
21          social distancing.

22          Q.    What do you mean by maximum steps?

23          A.    The ability of what we have as of this  
24          date.  As we know, it's a fluid situation and



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1 things change, sometimes daily, so that the steps  
2 were taken, and if there's more that need to come,  
3 then we take those as well.

4 Q. Bristol does not think anything else  
5 could be done to minimize the risk of a COVID-19  
6 infection, correct?

7 A. I did not hear you.

8 Q. Bristol does not think anything else  
9 could be done to minimize the risk of a COVID-19  
10 infection, correct?

11 MR. KANWIT: Objection.

12 Q. You can answer.

13 A. I believe we're doing everything that we  
14 possibly can.

15 Q. Are there any additional steps that you  
16 could take at this point to further reduce the  
17 risk that detainees may be exposed to COVID-19?

18 A. I believe we're doing everything that we  
19 possibly can.

20 Q. So, in your opinion, there's nothing  
21 further that can be done at Bristol in order to  
22 secure the safety of detainees and staff in the  
23 civil immigration units?

24 MR. KANWIT: Objection.

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1           A.    If changes come forward through CDC and  
2    DPH guidelines or on recommendations from the  
3    medical vendor, then we would update those as  
4    needed.

5           Q.    At any point since March 1st, 2020, have  
6    you made any recommendations to anyone at Bristol  
7    as to steps that should be taken to get better  
8    protection for detainees?

9           A.    I'm not following what your question is.

10          Q.    Yeah, let me rephrase that.  That was a  
11    little confusing.

12                    At any point since March 1st, 2020, have  
13    you made any recommendations for what should be  
14    done with regard to COVID-19 that weren't  
15    followed?

16          A.    No.

17                    MR. KANWIT:  Objection as to time frame.

18          Q.    You can answer.

19          A.    No.

20          Q.    Bristol did not consult with any outside  
21    public health experts regarding best practices for  
22    dealing with COVID-19 prior to this litigation,  
23    correct?

24          A.    No.

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

232

1 Q. Bristol did not take any steps to  
2 evaluate detainees for release prior to this  
3 litigation, correct?

4 A. No.

5 Q. Bristol did not consider alternatives to  
6 detention for detainees prior to this litigation,  
7 correct?

8 A. Correct.

9 MS. CURTIS: If we have Miles back, can  
10 we get Exhibit 48.

11 AV TECHNICIAN: Of course. One second.

12 MR. KANWIT: While he's pulling that up,  
13 Annaleigh, your question was about Bristol. And  
14 the definition given earlier by counsel, Bristol  
15 was Bristol County House of Corrections. I just  
16 want to be clear. We don't mean to ask did ICE  
17 consider any steps to release detainees.

18 MS. CURTIS: I'm asking about Bristol;  
19 that's correct.

20 MR. KANWIT: Thank you.

21 Q. Okay. I will represent to you that  
22 Exhibit 48 is a PDF of the ICE web page on ICE  
23 guidance on COVID-19 that was saved yesterday.

24 Have you read the ICE guidance on

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

234

1 Q. The last sentence in that paragraph says  
2 that ICE's detained population has dropped by more  
3 than 4,000 individuals since March 1st, 2020, with  
4 a more than 60 percent decrease in book-ins when  
5 compared to this time last year, correct?

6 A. Yes, that's what it says.

7 Q. Is it fair to say that ICE is taking  
8 steps to reduce the detained population?

9 MR. KANWIT: Objection.

10 A. I would guess that's what ICE is doing.  
11 I'm not sure what they're doing or why they're  
12 doing it.

13 Q. Bristol didn't communicate with ICE  
14 about evaluating detainees for release prior to  
15 this litigation, correct?

16 A. Correct.

17 Q. Bristol hasn't communicated with ICE  
18 about evaluating detainees for release since this  
19 litigation began, correct?

20 A. Correct.

21 Q. Are you aware of anyone at Bristol who  
22 ICE voluntarily released due to COVID-19?

23 A. Could you repeat your question.

24 Q. Are you aware of anyone at Bristol who

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

236

1 Q. You have not contacted ICE to discuss  
2 the impact of dormitory-style rooms on  
3 transmission of COVID-19, correct?

4 A. Correct.

5 Q. Did you receive any binding guidance  
6 from ICE regarding your housing of ICE detainees?

7 A. What do you mean by "binding"?

8 Q. Have you received any guidance from ICE  
9 that you were required to follow regarding housing  
10 of detainees because of COVID-19?

11 A. No.

12 Q. Did ICE ever provide guidance to Bristol  
13 on screening ICE detainees for COVID-19?

14 A. Not that I'm aware of.

15 Q. Has ICE asked Bristol to provide ICE  
16 with a list of ICE detainees who have illnesses  
17 that put them at higher risk of complications if  
18 they contract COVID-19?

19 A. They may have. If they did, it would  
20 have been probably directly to the medical vendor.

21 Q. And the medical vendor is CPS; is that  
22 right?

23 A. That's correct.

24 Q. And you're not aware if ICE has

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

237

1 contacted CPS about illnesses by ICE detainees?

2 A. Not that I'm aware of.

3 Q. How often do you communicate with ICE  
4 officers?

5 A. It varies depending on what the  
6 circumstances are. I -- I have a director of  
7 immigration that deals directly with ICE on a  
8 daily basis.

9 Q. And what's that individual's name?

10 A. Liunetty Couto.

11 Q. And what are her job responsibilities?

12 A. She -- she coordinates our immigration  
13 detainee program. She meets with detainees. She  
14 processes them. She does caseworker duties with  
15 them. She works with ICE on releases and on new  
16 commitments and what our bed space availability  
17 is.

18 Q. And do you know if she has discussed any  
19 ICE detainees with ICE -- strike that.

20 Do you know if Ms. Couto has had any  
21 conversations with ICE regarding the health status  
22 of any ICE detainees?

23 A. I don't know.

24 Q. How often do ICE officers visit Bristol?

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

242

1 Q. I guess let me rephrase it in a little  
2 bit of a different way.

3 Are you aware of any guidance from ICE  
4 to detention facilities in general about COVID-19?

5 A. Yes. They would send us -- and, like I  
6 said, I believe they were in the production of  
7 documents.

8 Q. Okay. Now, at the beginning of the  
9 litigation, is it correct that there were 140 ICE  
10 detainees housed at Bristol?

11 A. I know there was 140. I don't know if  
12 it was 148 or just 140, but it was around that  
13 number.

14 Q. And did you believe as of March 27th  
15 that 140 detainees could be housed safely at  
16 Bristol?

17 A. I believe by us following the CDC and  
18 DPH guidelines, as well as putting into practice  
19 in -- procedures in place, that yes.

20 Q. And as of today, do you still believe  
21 that Bristol can safely house 140 ICE detainees?

22 A. Yes.

23 Q. Do you have in mind a number of  
24 detainees that Bristol could safely house during

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

243

1 this pandemic?

2 A. No.

3 Q. But it's at least 140; is that fair?

4 A. Yeah.

5 Q. Thinking about the ICE detainees who  
6 have been released since March 27th, if you could  
7 re-detain those individuals, would you do so?

8 A. I don't control who we can detain from  
9 ICE. That's ICE's decision, so I don't think  
10 it's -- I could fairly answer that question.

11 Q. Is it fair to say you would have no  
12 objection to re-detaining them if ICE requested  
13 it?

14 A. I would have no objection to detaining  
15 anyone that was submitted -- committed by the  
16 courts or from immigration.

17 MS. CURTIS: Okay, Miles. If we could  
18 pull back up that document, which was...

19 AV TECHNICIAN: 48?

20 MS. CURTIS: 48.

21 AV TECHNICIAN: Yes.

22 MS. CURTIS: Thank you.

23 And if we can go to page 5. And scroll  
24 down a bit once we get to page 5. Yeah. If we



Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

270

1 have no date written under self-quarantine were  
2 still quarantined?

3 A. They were self- -- they were quarantined  
4 due to a family member, not for symptoms that they  
5 had.

6 Q. Okay. But I just -- to be clear, those  
7 employees were still quarantining; is that right?

8 A. That's correct. If -- if you -- the  
9 title at the top of it tells -- explains that.  
10 "Quarantine due to family or household member  
11 started, Quarantine for a family or household  
12 member ended."

13 Q. Okay. So those individuals were not  
14 working during their quarantine period as listed  
15 under the "family household member" column; is  
16 that right?

17 A. Correct.

18 Q. And -- I'm sorry -- did you say when you  
19 first started collecting this information?

20 A. We started collecting it shortly after  
21 the first -- first person that quarantined. I  
22 don't have a specific date.

23 Q. But that would be whatever the earliest  
24 date is listed on this spreadsheet?

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

271

1 A. Yeah, probably.

2 Q. So probably around mid-March, does that  
3 seem correct?

4 A. Yeah, around there.

5 Q. So from mid-March until April 28th,  
6 there were a few dozen employees who were  
7 self-quarantined for some period of time; is that  
8 right?

9 A. Correct.

10 Q. How many of those individuals were  
11 tested prior to returning to work to determine if  
12 they were negative for COVID-19?

13 A. They were cleared by their doctor. I  
14 don't know if they were tested or not.

15 Q. So they may have returned to work just  
16 following the quarantine period; is that right?

17 A. Once their -- once their PCP or medical  
18 professional determined that they can return to  
19 work, that note was submitted, reviewed by our ADS  
20 of employee health, and then a determination was  
21 made that they could return to work.

22 Q. And for those individuals who are  
23 quarantined because of a family or household  
24 member, how does Bristol determine whether an

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

275

1 the test was reported negative, and then she would  
2 put a specific date in that.

3 Q. And "date positive" means the date they  
4 received a positive from their test?

5 A. Yep.

6 Q. Date returned to work means the date  
7 they returned to work, I presume?

8 A. That would be the date that they were  
9 cleared to return to work, correct.

10 Q. And by my count, there are 49 rows with  
11 data here; is that accurate?

12 A. Whatever's on the form. I don't know  
13 what the exact numbers are.

14 Q. And is it correct that as of the date of  
15 this document, April 28th, 25 Bristol County  
16 Sheriff's Office employees had been tested for  
17 COVID-19?

18 A. I don't know. I would have to count. I  
19 don't know the exact number.

20 Q. But it's whatever number is on this  
21 sheet?

22 A. That's correct.

23 Q. And 24 Bristol County Sheriff's  
24 Office employees had self-quarantined or -- strike

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

279

1 information from to tweet it to see if it's part  
2 of that or not.

3 Q. When was the last time the spreadsheet  
4 was updated?

5 A. I believe it was updated on the -- maybe  
6 on the 30th. I'm not a hundred percent positive.  
7 I'd have to look at my e-mails.

8 Q. And, as you sit here today, do you  
9 recall whether there were more than eight Bristol  
10 County Sheriff's Office employees who had tested  
11 positive?

12 A. Not that I'm aware of.

13 Q. And do you have any reason to doubt the  
14 veracity of the Bristol County Sheriff's Office  
15 Twitter account?

16 MR. KANWIT: Objection.

17 A. Again, I don't know what -- our  
18 individual that controls that -- if it was  
19 documents prior to or where they got that  
20 information. I don't have any idea.

21 Q. Okay. And has there been any attempt to  
22 do contact tracing for the individuals who work at  
23 Bristol County Sheriff's Office who tested  
24 positive for COVID-19?

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

280

1 A. Yes.

2 Q. And what attempts have been made?

3 A. We look at schedules, we look at video,  
4 we look at individuals that -- anyone that tested  
5 positive, where they worked, what shift they were  
6 on, the location, and so forth.

7 Q. And is any effort made to test  
8 individuals they may have come into contact with?

9 A. They would be informed through the memos  
10 that were produced as documents from the sheriff  
11 notifying individuals to shift in the locations  
12 where they worked.

13 Q. Nothing else would be done in terms of  
14 providing tests?

15 A. No. We do not do testing on staff. We  
16 direct them to their PCP.

17 Q. And is the contact tracing that you just  
18 described reflected in any of the documents that  
19 you've seen?

20 A. I don't believe so.

21 Q. So there are no documents you're aware  
22 of that describe the process that Bristol should  
23 go through to trace contacts?

24 A. No.

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

288

1 employees been tested for COVID-19?

2 A. Not that I'm aware of, but I don't know  
3 until I see the most updated sheet.

4 Q. And was there any attempt to do  
5 contract -- contact tracing for people that these  
6 employees may have come into contact with?

7 A. I'm not sure, to be honest.

8 Q. And do you know whether any CPS  
9 employees have begun self-quarantine since this  
10 chart was updated?

11 A. I don't know.

12 Q. So between Bristol County Sheriff's  
13 Office and CPS, about ten employees have tested  
14 positive for COVID-19 as of April 28th, correct?

15 A. That's correct.

16 Q. And that's out of 32 employees that show  
17 a test between Exhibit 26 and Exhibit 25, correct?

18 A. Whatever the numbers are.

19 Q. And I'll represent to you that by my  
20 count, it is 10 out of 32, so that's approximately  
21 one-third of the employees who have tested -- who  
22 have been tested for COVID-19 that have tested  
23 positive, correct?

24 A. By your calculations, yes.

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

302

1 that the federal rules allow a presumptive seven  
2 hours on the record for any witness. This witness  
3 is not only a 30(b)(1) witness but also a 30(b)(6)  
4 on eight topics, which is the entirety of the  
5 30(b)(6) notice, and we're entitled to the full  
6 seven hours, if not more than that, but the seven  
7 hours is the presumptive amount of time, in the  
8 absence of some other agreement.

9 MR. KANWIT: And you normally wouldn't  
10 get him on a deposition as quickly as you did  
11 under the federal rules.

12 MS. CURTIS: Well, we're talking about a  
13 preliminary injunction here, so we have to have  
14 pretty quick discovery. Why don't we get into it?

15 MR. KANWIT: How much time do you want  
16 to take fencing about this?

17 MS. CURTIS: The question is --

18 MR. KANWIT: How long?

19 MS. CURTIS: -- how much time you're  
20 willing to take talking about --

21 MR. KANWIT: Clock's running.

22 MS. CURTIS: -- running out the clock.  
23 So why don't we get back to Superintendent Souza.

24 BY MS. CURTIS:

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

303

1 Q. So what I'm going to do, in light of  
2 Attorney Kanwit's representations, is talk about  
3 some 30(b)(1) topics. There are two 30(b)(6)  
4 topics we haven't covered yet, which is topics 5  
5 and 6. I hope to get to both of those today, but  
6 if not, we are not waiving the right to cover  
7 those at a later date. But just to let the  
8 witness know that right now, you're only providing  
9 30(b)(1) testimony, not testimony on behalf of  
10 Bristol.

11 Do you understand?

12 A. Yes.

13 Q. Okay. You agree that social distancing  
14 is important in combatting the spread of COVID-19,  
15 right?

16 A. Yes.

17 Q. And you agree that washing hands is  
18 important in combatting the spread of COVID-19,  
19 correct?

20 A. As well as any other disease.

21 Q. And you agree that disinfecting common  
22 areas is important in combatting the spread of  
23 COVID-19, right?

24 A. As well as other diseases.



Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

306

1 A. Correct.

2 Q. And the toilets as well?

3 A. I would say yes.

4 Q. Visitation is not currently allowed at  
5 Bristol, correct?

6 A. Correct.

7 Q. When did Bristol decide to stop  
8 visitation?

9 A. I don't have the exact date, but it is  
10 on the memo from the sheriff about suspending  
11 visits.

12 Q. And visits were suspended because they  
13 can't happen safely right now, correct?

14 A. Visits can't happen because we don't  
15 want other people coming into the institution.  
16 All visits are noncontact.

17 Q. But you would agree that visitations  
18 can't currently happen safely, right?

19 A. Correct.

20 Q. And all employees at Bristol are  
21 considered emergency status or essential, correct?

22 A. That's correct.

23 Q. And you agree with me that COVID-19  
24 presents a historic challenge to Bristol, correct?

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

308

1 Q. And you agree that preventing infection  
2 requires vigilant social distancing and personal  
3 sanitation, right?

4 MR. KANWIT: Objection.

5 A. Can you repeat that question.

6 Q. Yeah. If you look at that same  
7 paragraph, the second sentence says "Provided we  
8 remain mindful and vigilant with our social  
9 distancing and personal sanitation both here and  
10 in the community, we can reach our shared goal of  
11 preventing our inmate population, us, and our  
12 families from becoming exposed to and infected by  
13 COVID-19."

14 Do you see that?

15 A. I can't -- I can't see the very bottom  
16 of it.

17 MS. CURTIS: Miles, can you scroll down  
18 a little.

19 A. Thank you. Yes.

20 Q. And do you agree with Sheriff Hodgson  
21 that preventing infection requires vigilant social  
22 distancing and person sanitation?

23 A. As -- as he stated there, yes, both --  
24 both here and within the community.

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

311

1 Q. Okay. And you testified earlier that  
2 you communicate with some peers at similar  
3 institutions in Massachusetts, correct?

4 A. Correct.

5 Q. And are you aware of other correctional  
6 facilities in the United States having had  
7 outbreaks of COVID-19?

8 A. Yes, I've heard it on the news.

9 Q. And are you aware that some of the  
10 largest outbreaks in the United States so far have  
11 been correctional facilities?

12 A. Correctional facilities and nursing  
13 homes, I've heard both.

14 MS. CURTIS: And, Miles, if you can pull  
15 up 15.

16 AV TECHNICIAN: One second.

17 Q. And I've had marked here as Exhibit 15 a  
18 New York Times article called "Coronavirus in the  
19 U.S., Latest Map and Case Count," last updated  
20 April 29th, 2020 at 8:56 a.m.

21 Have you seen this document before?

22 A. No, I have not.

23 MS. CURTIS: Miles, if you could go down  
24 to the tenth page of the PDF, and let's scroll

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

312

1 down to the last paragraph of the page.

2 Q. Do you see that this says at the -- that  
3 last paragraph, first sentence, "Times journalists  
4 have for weeks tracked clusters of cases and  
5 deaths across the country"?

6 A. Yes, I see that.

7 Q. And the next sentence begins "The  
8 largest such outbreaks include prisons in Ohio and  
9 Arkansas."

10 Do you see that?

11 A. I do.

12 Q. And following that --

13 MS. CURTIS: Miles, if you could scroll  
14 down.

15 Q. -- there's a list of the largest  
16 clusters of outbreaks.

17 Do you see that?

18 A. Yes, I do.

19 Q. And the first outbreak is in a  
20 correctional facility in Ohio, correct?

21 A. Correct.

22 Q. The second outbreak is in a different  
23 correctional facility a Ohio, right?

24 A. Correct.

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

313

1 Q. The next one is at a pork processing  
2 facility in South Dakota, correct?

3 A. That's what it says.

4 Q. And the next one is at the U.S.S.  
5 Theodore Roosevelt?

6 A. Yep.

7 Q. And the fifth entry on the list is a  
8 correctional facility, correct?

9 A. Correct.

10 Q. The sixth entry on the list is a  
11 correctional facility, right?

12 A. That's what it says.

13 Q. The seventh entry on the list is a  
14 correctional facility, right?

15 A. Correct.

16 Q. The eighth entry on the list is a  
17 correctional facility, correct?

18 A. Correct.

19 Q. The ninth entry on the list is a  
20 correctional facility, right?

21 A. That's what it says.

22 Q. And the tenth entry on the list is a  
23 correctional facility, correct?

24 A. Correct.

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

314

1 Q. So of the ten largest outbreaks in the  
2 U.S. as of April 29th, eight were in correctional  
3 facilities, correct?

4 MR. KANWIT: Objection.

5 Can you scroll up, because it's not  
6 clear to me it's showing the largest outbreaks or  
7 just cases connected to.

8 Q. Superintendent Souza, my question is of  
9 the ten largest outbreaks in the U.S., per this  
10 list, eight were in correctional facilities,  
11 correct?

12 MR. KANWIT: Objection.

13 A. The outbreaks by this form, yes.

14 Q. And do you know how, if at all, the  
15 housing setups in these facilities on this list  
16 differ from those in Bristol?

17 A. I have no idea any of those facilities.

18 Q. And do you know how, if at all, the  
19 practices on testing in these facilities differ  
20 from those in Bristol?

21 A. You broke up.

22 Q. Do you know how, if at all, the  
23 practices on testing in these facilities differ  
24 from those in Bristol?

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

315

1 A. I wouldn't know.

2 Q. Can we pull up 16.

3 I've had marked as Exhibit 16 an  
4 editorial in The New England Journal of Medicine  
5 titled "Asymptomatic Transmission, the Achilles'  
6 Heel of Current Strategies to Control COVID-19."

7 Have you seen this document before?

8 A. No, I have not.

9 Q. And would you agree that the New England  
10 Journal of Medicine is one of the most highly  
11 regarded medical journals in the world?

12 MR. KANWIT: Objection.

13 A. I don't have an opinion on that.

14 Q. 'Cause you're not a medical  
15 professional, right?

16 A. That's correct.

17 Q. And just going back to my question about  
18 other facilities with outbreaks, can you identify  
19 anything Bristol's done differently from those  
20 facilities that would make an outbreak at Bristol  
21 less likely than an outbreak at those facilities?

22 MR. KANWIT: Objection. He already  
23 testified he doesn't know what they're doing.

24 Q. You can answer the question.

Transcript of Steven Souza, Corporate Representative  
Conducted on May 1, 2020

318

1 A. That's what I've heard, yes.

2 Q. And do you see that the next sentence in  
3 Exhibit 16 here says "This recommendation for  
4 SARS-CoV-2 testing of asymptomatic persons in  
5 skilled nursing facilities should most likely be  
6 expanded to other congregate living situations,  
7 such as prisons and jails"?

8 A. I see what it says there.

9 Q. And Bristol is not doing asymptomatic  
10 testing, correct?

11 A. That's correct. Following the CDC, DPH  
12 guidelines.

13 Q. Now, Bristol has access to three area  
14 hospitals, correct?

15 A. Several area hospitals.

16 Q. And those are St. Luke's, Charlton  
17 Memorial, and Morton; is that right?

18 A. Amongst a few of them, yes.

19 Q. And what are the others?

20 A. You have Sturdy Hospital. You have St.  
21 Anne's Hospital.

22 Q. And you would not want to overwhelm any  
23 of those facilities due to an outbreak at Bristol,  
24 correct?





5. They just started giving us cleaning supplies for the common areas and our individual cells after the lawsuit started. Before then, we just were using soap and water. The soap gets refilled every Friday, and we frequently have one or two days when we do not have any soap when we run out. We have never had hand sanitizer here.
6. The law library, television area, and washing area to wash dishes are all in the same room. If more than 2 people want to watch a movie, it is impossible and unrealistic to keep 6 feet apart because there is no space to stay apart. I do a lot of research for my case, and people keep coming in, and it is very problematic to be able to socially distance. We are trapped in here.
7. They bring the meal cart from the kitchen into the unit. We eat our meals in what we call the common room. There are 3 tables—2 little ones and 1 large one. I worry because the virus could be airborne, and there are people coming and going from the outside all the time. There is a possibility that somebody from outside can bring it in, and not have symptoms, but could still infect others. It is not a zero possibility that we won't get it.
8. This declaration was read to me in English, and I swear it is true. I have authorized Melanie Gleason, Esq., staff attorney at Lawyers for Civil Rights, to sign for me.

Dated: May 4, 2020

/s/ Angela de Jesus Concepcion

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Angela de Jesus Concepcion



time, and the showers are open. At least 5 people are in the bathroom at any given time, and there is not definitely not enough room to keep 6+ feet apart. We run out of soap constantly, and right now we are out of soap. They don't provide us with any other soap. Every week, we run out, and they only restock on Thursdays. We often go entire weekends without any soap and have to wait until Thursday.

6. Cleaning at the facility is done by all the inmates. They have no access to cleaning supplies at all; they only use soap and water. There is mold on the showers and walls; it is not sanitary.
7. The facility just started giving us masks 2-3 days ago. They passed out 1 mask to each of us and we are supposed to reuse them. They are talking about having us wash our masks every Saturday, and it does not sound like there is a replacement mask while they are washing it. I am also not sure if we are getting the same mask back. There is a mixture of surgical and cloth masks that have been given. For the last 2-3 weeks, staff/guards started wearing masks and are wearing gloves while making their rounds. For detainees, gloves are only given if they are on cleaning duty.
8. We don't have any supplies to clean our unit or bedding area. We only get personal care kits every 2-3 weeks, which include a toothbrush, a small bottle of shampoo, and deodorant. If people don't have enough in their commissary account, people go without until the next time the facility hands them out. People run out of things all the time.
9. During meals, everyone is still crowded together in the dining area. They don't let us bring back food back to our cells. Everyone is seated very closely together in the dining area—just a few inches apart. There are around 15 tables, with at least 6 people per table. Social distancing isn't being enforced here, and they aren't telling people to sit at different tables. There are several people who are handing out food, and they just started wearing masks and gloves this Monday.
10. There has never been any hand sanitizer at the facility since I have been there. All the time, people constantly go in and out, touching the same door and other common surfaces. I only see doorknobs sprayed once a day, if even that, at night.
11. This declaration was read to me in English, and I swear it is true. I have authorized Melanie Gleason, Esq., staff attorney at Lawyers for Civil Rights, to sign for me.

Dated: May 1, 2020

/s/ Amiry Carlos Dias

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Amiry Carlos Dias

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

MARIA ALEJANDRA CELIMEN SAVINO,  
*et al.*,

Petitioners-Plaintiffs,

v.

STEVEN SOUZA,

Respondent-Defendant.

Case No. 1:20-cv-10617-WGY

**DECLARATION OF ISAAC DOE**

I, Isaac Doe, declare under penalty of perjury that the following is true and correct to the best of my knowledge:

1. My name is Isaac Doe and I am currently detained at the Bristol County Jail and House of Corrections. I have been detained in the 2 East unit at this facility for close to eight months.
2. There have not been significant changes in our conditions since late March. In 2 East, we live in cells with four bunk beds each. Three of the bunk beds are next to each other in a straight line and one bunk bed is by the window. They are all close to each other.
3. The Correctional Officers (COs) have been trying to move some people around. They tried to make it so that there were only four people in a cell and people would sleep with one person in the bottom bunk and the next bunk over has someone in the top bunk. But they can't do that for all the cells because there are too many people in the Unit to have four people per cell. For cells with more than four people, they tried to make people sleep in opposite directions but even that was too hard to enforce. The COs couldn't keep going into cells and telling people to sleep a different way.
4. There are five people in my cell right now, so three bunks have one person and one bunk has two people in it. But it doesn't even matter because people are always around each other's bunks. For example, I saw my cellmates playing cards on one person's bunk, so no one is even enforcing the distance.
5. The new sleeping arrangements don't matter. We have contact with all other immigration detainees and jailers throughout the day. We share bathrooms, the day room, and the recreation space. When people eat, they sit right next to each other—about 2 feet away.

The COs do not enforce social distancing. I see people frequently sitting in the same corner together and the COs don't do anything about it.

6. We do not leave the block. It used to be the case that we could report to the medical wing, but now that's been closed off except for the most serious of medical problems. Instead now, you go see the nurse at the nurse's station.
7. The only major change is that the COs are now requiring us to wear masks. The staff first provided us masks in the second week of March. We were told that it was not mandatory to wear them, but that the staff were required to provide them. However, the masks we were given were too thick to breathe in – they were made from the same material that uniforms are made out of.
8. However, a few weeks later, the COs informed us that we had to wear a mask at all times unless we were in our cell or eating. Some of the guys had put their original mask in the laundry or misplaced it.
9. On Monday, April 27, the COs brought in a stack of disposable masks and said that those who didn't have masks could take a disposable mask. However, I saw that for people who went up to get masks, they were written up for not having a mask even though they were never told they would be penalized for taking a new mask. From speaking to others in my unit, I believe around ~40 people were written up. Getting ticketed can mean a lot of things: you could get locked in your cell for a day or get put in segregation. Two of my cellmates got disciplined with being locked in their cell for a day for trying to get a mask.
10. They didn't make the COs or us wear masks until April. But they don't take it seriously. Just last Friday, May 1, I was talking to a CO and his mask was down while he was talking to me. There are a lot of COs who have their masks down when we talk to them.
11. We also don't have enough soap. The staff gave everyone in the Unit a small piece of soap in mid-April. I think they did this twice, but that's it. The piece of soap was so small that it broke into three pieces while I was using it. We still have an issue with no soap in the bathroom. We share two bathrooms. Right now, for example, there is only one dispenser with soap in it, so if you want to get soap, you have to go to the other bathroom to get some. So you're forced to touch dirty door handles just to get to the soap. We asked for more soap a few days ago, but the dispenser still has not been filled.
12. The COs tell us that they fill the soap on a weekly basis, but that's not good enough because the soap will run out earlier than that.
13. There is no hand sanitizer in my unit. We have some cleaning supplies, but they are watered down so it's like just using water. People will try to clean, but the mops are also dirty.
14. The unit is just not clean. The sheriff's office said that they sanitize the block three times a day, but I haven't seen that. I see a lieutenant that comes around once a day at night to

spray the doorknobs, but she doesn't wipe them down. The bathroom is out of control. We share all of the common areas and people are in and out of each other's cells every day. There's no way for us to keep safe.

15. Detainees do all of the cleaning in the unit, including the bathroom and other shared spaces. They are given water and a power washer for the bathroom, but no real chemicals. The chemical bottles are watered down. The workers who do cleaning and meal service get gloves, but no one else. Sometimes, there are not enough gloves. Also, no staff has ever opened the windows in my unit. I don't think the windows in 2 East even open; they are just there to look out of.
16. It's been so bad in here that we had a work strike on Monday, April 27. We had so much stress building up. The sheriff is always in the newspaper or on television saying that we're safe and well protected, but they're not doing anything to protect us in here. There are so many people in here that they can't implement social distancing. There was a meeting, then, where we tried to tell the Lieutenant and staff that there is no soap and our other demands.
17. They said they would take our concerns seriously, but I don't know. It's always like this – you try to express your concerns to the CO, and then they call the Lieutenant. The Lieutenant then has to call the major. Someone always has to talk to the person above them, so we don't hear anything for a long time. This is the third meeting we've had with them about the same things.
18. We ended the work strike because the workers were getting written up with tickets. We didn't want people to get locked in or put into solitary so people started working again. I don't want people to get penalized.
19. On top of that, the staff have brought in new jailers from downstairs or from other facilities. To my knowledge, they're not being tested for COVID-19, not even a thermometer test when they come in.
20. Last month, one of the guys in my unit had symptoms so they quarantined him and everyone from his cell. When you get quarantined, they put you in segregation for a week without showering or anything. You're just stuck in there.
21. If I could go home, I could social distance. I could actually quarantine myself.
22. I'm scared. I'm waiting to catch it. They're not testing people who aren't showing any symptoms, but we know that people can be carriers and not show symptoms. I could be passing it on by just eating with someone or sitting in my cell.
23. This pandemic is not a joke, it's very serious. But I don't feel that they're taking it or our safety seriously. We're stuck here and the COs and staff are already contracting the virus. Another three COs just tested positive recently, but the Sheriff is still saying that this facility is safe, that the jail is so polished you could eat off the floor. They're saying it's

safer in here than being on the streets. This is what's getting us so stressed. How could anyone see what's in here and think it's safe? We're right on top of each other. We're sitting ducks. And on top of that, we're not being treated as we should when it comes to our safety.

24. I've been detained for around 8 months, but it feels like 10 years. I've been waiting for a ruling on my file. It makes me feel like giving up. When I saw my name was on the list, I had a sense of hope. But since then, it's been waiting, waiting, waiting. It's stressful. Every day, I wake up and struggle to cope with things to get through the day, because it's getting harder and harder to. I'm a sitting duck in here.
25. This declaration was read to me in English and I swear it is true. I have authorized Megan Yan, law student intern working on *Savino v. Souza*, to sign it for me.

Date: May 4, 2020

/s/ Isaac Doe  
Isaac Doe



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

_____		)	
MARIA ALEJANDRA CELIMEN SAVINO,		)	
<i>Et al.</i> ,		)	
	Petitioners-Plaintiffs,	)	Case No. 1:20-cv-10617-WGY
		)	
	v.	)	
		)	
STEVEN SOUZA,		)	
		)	
	Respondent-Defendant.	)	
		)	
_____		)	

**DECLARATION OF ABDULAYE FALL**

I, Abdulaye Fall, declare under penalty of perjury that the following is true and correct to the best of my knowledge:

1. My name is Abdulaye Fall. I am a detainee in Unit B and have been here for approximately 1 year.
2. I am really in fear of getting infected by COVID-19 in here. The conditions are horrible, and there is no way for us to socially distance. I am very scared about this. I don't want to end up getting sick and dying because of this.
3. The bathrooms have not been cleaned at all for at least a week. Detainees used to do that cleaning, but that has stopped. Even when we used to clean, conditions were not very good, and we were often just cleaning with water. There was one broom, that was used both for cleaning the bathroom and the common areas. But now no one is doing even that cleaning. Detainees aren't doing it, there are no janitors, and no other staff does it either.
4. This means that the bathrooms are dirty and getting worse. There are flies in the bathroom, and leaking, standing water. There is toilet paper and other trash on the floor.

5. We are still sleeping in all 5 rows of bunk beds. We are right next to each other, and when people get up in the middle of the night or in the morning and walk down the aisles, they pass right next to people in their beds.
6. They gave us one mask each about 2 weeks ago. I have not had a replacement since then, and I don't know how we're supposed to clean them.
7. Staff sometimes wear masks now, but sometimes don't. Detainees don't have any gloves. Staff now serve meals, wearing the same gloves they wear throughout the day.
8. I am scared to even go to Medical, which is in another facility. When you go there, you are put in a cell to wait, which is used to hold all kinds of other people before and after, other ICE detainees, inmates, people who are coming back from court. There is no disinfecting of that cell that I am aware of between uses. You also have to have a metal detector used on you, and they use that same equipment on everyone who comes through there. I have never seen that disinfected or cleaned between uses either.
9. The air quality is very concerning to me as well. About six months ago, I saw them try to clean inside of the air conditioning, and it looked very dirty and moldy. They tried to use a vacuum to clean, but there was no way to do that. There is no real ventilation, unless you go outside and there is a time limit for that.
10. When there is an inspection, they try to make everything look nice and clean, but that is not the way everything usually is. I have seen that many times during my time here.

This declaration was read to me in English and I swear it is true. I have authorized Oren Sellstrom, who is my counsel, to sign for me.

Dated: May 1, 2020

/s/ Abdulaye Fall  
Abdulaye Fall



- us inside the unit. After one of the staff opened one of the doors, there was still a lot of smoke inside. I asked a Correctional Officer (CO), Mr. Santos, to get a ventilator to circulate more air in the unit. He refused to do so, and then I asked if all of us in the unit could be moved somewhere else because of the smoke while the construction was going on. CO Santos said there was nowhere else to go. Some of us then went into the classroom to get away from the smoke. There were a few of us there, and one of the other detainees in our block, Melvin Mateo Mateo, went into the classroom and said he took 2 puffs of his asthma inhaler and thought he may be having an asthma attack. I took him over to CO Santos and told him he was about to have an attack. CO Santos called the nurse over.
5. While CO Santos called the nurse over, I brought Melvin outside to breathe. While I was outside with Melvin, another detainee, Jose Rivera Fernandez, went over to CO Santos and told him he was having a breathing problem, too. CO Santos thought that I was causing trouble by organizing people in the classroom into protest, which is not what I was doing. I was then put in segregation for 9 days, starting April 22<sup>nd</sup>, and I was released this morning, Friday, May 1.
  6. While I was in segregation, on the first night, my left arm was feeling numb and I was feeling very uncomfortable—and I was scared. I called the CO in segregation and told him what I was experiencing. The CO denied me access to see the nurse. When the nurse came into my cell to give me my medication, I expressed my concern to her, and she told me that I really had some problems, and she was worried. The nurse was also accompanied by the segregation CO. The CO still said in front of her, that he didn't want me to go. But she insisted. Then, he backed down.
  7. Then, the nurse took me with her to the medical section. They had me do an EKG in a separate room—and it came back relatively normal for me. The EKG that I had before, revealed that I had some heart issues. I told the nurse that I preferred to be monitored in medical because I did not want to get worse. That is when the nurse told me that all of the medical rooms were for people who have COVID-19. She said, "You do not want to be in there." Then, another nurse came up to her and said that they were going to hold detainees with COVID-19 there as long as they could, and then she left.
  8. While I was in segregation, I overheard another detainee who was below me talking to himself about having COVID, and I asked him about it. He said that there was a separate quarantine section in the facility for people who they thought were exposed to the virus. He thought he may have had it, but he was never checked—and he thought other people have it the facility. He said something along the lines of: "I think if they don't see you dying, they are not going to give you a test. They think you have the flu, and they won't send you to a doctor."
  9. Then, on Wednesday, April 29, I had a medical follow-up with a doctor, and it was a video appointment. They had someone take my blood pressure, and it was

around 179/122. The doctor said I could easily have a heart attack, and put me on a high blood pressure medicine. My anxiety is through the roof because of COVID-19 too, and I am afraid to speak out in the future because of the retaliation I experienced recently.

10. The conditions at the facility have hardly changed. At the sinks in Unit A, we have to wash our own bowls and dishes, and brush our teeth in the same space—so those germs are mixing everywhere. The soap is 90% diluted, and you have to pump it a lot to get a good amount of soap going. We eat on our beds because there isn't enough room to socially distance in the dining hall. We would need to be sitting one person per table in order to be 6 feet apart from each other.
11. This declaration was read to me in English, and I swear it is true. I have authorized Melanie Gleason, Esq., staff attorney at Lawyers for Civil Rights, to sign for me.

Dated: May 1, 2020

/s/ Amaury Reyes Batista

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Amaury Reyes Batista



7. The toilets get clogged and no one does anything about it. There can be feces in it, and overflowing. Detainees end up cleaning it. You can see fecal matter on the toilet seats. There are no toilet lids on any of the toilets.
8. There is no regular cleaning of other surfaces either. I have never seen the shared water fountain cleaned, so I don't use it. There is no cleaning of phones and door knobs and other items like a chin-up bar after every use. I have seen staff spray something on those surfaces in the morning and in the evening, but not throughout the day or after use. I have not seen staff or anyone else spray or disinfect the tables and chairs.
9. There are about 25 of us in Unit B now. For a while a couple of weeks ago, they had us sleeping every other row. Then that changed, because some people were sharing bunks. The COs moved us again about a week ago. Now we sleep in every row again, so that no one has to share a bunk. The problem is that this means we are very close to each other in every row. It feels like people are breathing right on top of each other, and the smells of the other detainees are very close.
10. Staff use of protective equipment is inconsistent. Some wear masks. Others wear them but have them up on their foreheads or down on their chins. Nurses usually wear masks but don't always wear gloves, even when giving out medications. I have filed a grievance about this in the past, but I never heard back about that. I am also concerned about retaliation for complaining, because I have been put in Segregation before and they have a lot of power over us.
11. We were given cloth masks for our personal use, about 2 weeks ago. We are told we have to wash them ourselves. But we are not currently allowed to go into the laundry area, so it's not clear to me how we are supposed to do that. Laundry workers used to do the laundry, but they don't do that now. No gloves have been issued to us.
12. We have been given one hygiene kit every week. This contains toothbrush, toothpaste, and a little shampoo bottle. We have no access to any cleaning supplies to wipe down our bunk or any other shared area we might use. They don't give us any personal hand sanitizer for us to use.
13. When I have gone to medical, they pat you down and use a metal detector that you have to place your chin on. I have not seen that disinfected, and it is also being used on inmates from other units who are also in medical. This is also used on people that are coming straight from the streets. While we are waiting for medical, or to be brought back to Unit B, we are held in cells that other inmates and others who are being admitted have just been in and there is no cleaning or disinfecting between uses.

14. For meals, we still eat in the common area. There is not enough room to practice social distancing at the tables. The same is true for other areas, such as watching TV or going to church.

This declaration was read to me in English and I swear that it is true. I have authorized Oren Sellstrom, who is my counsel, to sign for me.

Signed: /s/ Lloyd Wafula

Date: May 1, 2020





nurses took my temperature and blood pressure and reported it to the doctor. The doctor said it was okay for me to go back to the unit. Those four days felt like punishment, and I lost a lot of weight.

6. The day I received my test results, I was released from the Medical unit back to 2 East. The nurses then took the temperature of everyone in the unit. The nurses have not come back since to do temperature checks.
7. I first saw guards start wearing masks the week of April 27, 2020, but not all guards wear masks. Some of the guards will just carry their mask around. The guards often come in close contact with us, like when they hand us paperwork. I am fearful that the guards who do not wear masks could get us infected with COVID-19.
8. We were each given one mask that is of poor quality and made out of cloth. On April 30, 2020, I asked for an extra mask so I could send my mask to the laundromat to be cleaned. I heard other detainees also ask for an extra mask. After I asked for the extra mask, I was given a punishment ticket, which means I must stay in my cell for 24 hours. I observed the same occur for other detainees.
9. Not everyone wears a mask, and many are confused about why we should wear a mask. When we were given the masks, no one explained to us why or how we should wear the masks. I wear my mask most of the time, but it is very hot and humid in my cell, so it makes it difficult to breathe when I wear the mask. The air ducts are clogged with dust and paper, so we do not have a constant, clean air flow.
10. No one else in my cell wears their mask. My cell is 10 feet wide and 20 feet long. We have four double bunk beds. I sleep on a bottom bunk bed, and one of my cellmates sleeps on the top bunk bed.
11. The bathrooms do not have any soap in the soap dispensers. We were given one tiny soap twice in the past three weeks. There are only two sinks in the bathroom that work, so some people use the water fountain to wash their hands. I am not able to keep my hands clean.

This declaration was read to me in English and I swear it is true. I have authorized Mikayla Foster, who is my counsel, to sign for me.

Dated: May 4, 2020

/s/ Jhony Bonilla Ochoa  
Jhony Bonilla Ochoa

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

MARIA ALEJANDRA CELIMEN SAVINO,  
*et al.*,

Petitioners-Plaintiffs,

v.

STEVEN SOUZA,

Respondent-Defendant.

Case No. 1:20-cv-10617-WGY

**DECLARATION OF JAIRON CASTILLO MARTINEZ**

I, Jairon Castillo Martinez, declare under penalty of perjury that the following is true and correct to the best of my knowledge:

1. My name is Jairon Castillo Martinez and I am currently detained at the Bristol County Jail and House of Corrections. I have been detained in the 2 East unit, also known as room 250, since September 2019.
2. I am an immigration detainee.
3. New individuals have recently come into 2 East. Two new inmates arrived in my unit yesterday, on May 4, 2020.
4. In 2 East, we live in cells. As of now, we have five people sharing the cell I am in. The cell has four bunks.
5. Two people sleep in the first bunk. All of the other bunks have one person each. I have slept in the same bed since September 2019.
6. We cannot leave the 2 East Unit to go to the medical unit whenever we want. We have to put in a request to be seen by the medical staff or to get medication. It takes a long time to get seen after entering a request. I have had significant delays getting my medication.
7. The bathrooms are disgusting. Inmates and detainees are assigned to clean the bathrooms twice a day. I have been on duty to clean the bathrooms. We use the same mop and broom in the bathroom and in the cells where we sleep. When cleaning the bathrooms, we are given some type of disinfectant, but I do not know what it is. There have been several times when the detainees cleaning the bathrooms have requested gloves and not received them.

8. We were given one mask two or three weeks ago. They have been washed once. When we sent them to be washed that one time, everyone had to put their mask in the same laundry bag. No one could tell when the masks came back which one belonged to them. If we ask for a new mask, we are given a disciplinary ticket.
9. I have started carrying my own soap container because there is often none available. I bought a bottle of lotion from the canteen and have used that bottle to store soap and shampoo when I can.
10. We are being treated incorrectly.
11. I have reviewed the information stated above with Mike Brown, an attorney working on *Savino v. Souza*, and I swear it is true. I have authorized Attorney Brown to sign this for me.

Date: May 5, 2020

/s/ Jairon Castillo Martinez  
Jairon Castillo Martinez

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

MARIA ALEJANDRA CELIMEN SAVINO,  
*et al.*,

Petitioners-Plaintiffs,

v.

STEVEN SOUZA,

Respondent-Defendant.

Case No. 1:20-cv-10617-WGY

**DECLARATION OF AIRES DA GRACA**

I, Aires da Graca, declare under penalty of perjury that the following is true and correct to the best of my knowledge:

1. My name is Aires Da Graca and I am currently detained at the Bristol County Jail and House of Corrections (“BCHOC”). I have been detained in the 2 East unit, also known as room 250, at this facility for seven months, since October 2019.
2. I am an immigration ICE detainee. There are criminal inmates held in 2 East as well.
3. New detainees have recently come into 2 East. Three new individuals have arrived over the past two days to my knowledge.
4. In 2 East, we live in cells. As of now, we have five people sharing the cell I am in.
5. There are four bunks in my cell. Two people sleep in the first bunk. All of the other bunks have one person each.
6. The masks we have been provided by BCHOC are not sufficient. They are difficult to breathe through. We were given only one mask. It is a handmade, cloth mask.
7. I know that individuals in 2 East have asked to get tested for coronavirus. To my knowledge, these individuals have not yet been tested.
8. The bathroom conditions in 2 East are not adequate. The showers are not sanitary, and there is mold growing them. In addition, we are constantly running out of soap.
9. The dining facilities are also not sanitary. For example, there is mold growing in the juice bins.

10. I am not able to stay six feet away from the other detainees in the unit throughout the day. For example, when on attorney phone calls I am surrounded by people close to me. It is very difficult to maintain social distancing in the course of daily activities.

11. This declaration was read to me, and I swear it is true. I have authorized Mike Brown, an attorney at WilmerHale, to sign for me.

Date: May 5, 2020

/s/ Aires da Graca  
Aires da Graca



When we don't have soap, we are only using water. Right now at this moment, there is still no soap.

6. A little over 2 weeks, I ago, I received a mask. But if I need to wash my mask, I don't have a replacement mask to wear, and it is dangerous.
7. I am afraid of getting coronavirus and dying in here, and suffering another panic attack.
8. This declaration was read to me in Spanish, and I swear it is true. I have authorized Melanie Gleason, Esq., staff attorney at Lawyers for Civil Rights, to sign for me.

Dated: May 4, 2020

/s/ Altagracia Baez Guerrero

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Altagracia Baez Guerrero





6. We are sleeping in each row of the bunk beds. I am in the middle row, a bottom bunk. There are two men nearest to me in the same row. Also someone in the row next to me, also on the bottom. If anyone gets up, they walk right by me.
7. We don't have gloves. We were given one cloth mask each. I try to wash mine by hand but I don't think that is very good. If it goes to the laundry it gets mixed with other detainees' clothes, which doesn't seem clean to me, so I don't do that.
8. Staff sometimes wear masks, but sometimes they don't. When I have asked about it, they say they don't have to.
9. Staff serve the meals now. They serve using the same dirty gloves they wear all day. Then we are expected to put the food into our mouths.
10. We don't get wipes or anything to clean our areas. The air feels very smelly and dusty, and ventilation is not good.
11. I am scared I am going to get infected with coronavirus and get sick or die.

This declaration was read to me in English and I swear that it is true. I have authorized Oren Sellstrom, who is my counsel, to sign for me.

Signed: /s/ Conroy Lewis

Date: May 1, 2020



because my asthma keeps me awake. It is always very difficult to breathe, and I am coughing all the time.

5. There is no professional cleaning staff here. I think there is also mold—I see it in the bathrooms, and I think there is mold on the ceilings and floors, too. Things in general aren't clean—our dishes aren't clean, and often are discolored, and it is in general unsanitary here.
6. I am not sure if the medical staff knows all the details in my case and what I need. I had a recent extreme asthma attack and after waiting for around an hour and a half, a young guy eventually came, but did not give me any medicine or anything, and I continued to suffer. After 3 days, I was issued the same blue inhaler that has done nothing for my condition. In general, when I am feeling sick and needing help because of my asthma, there is usually a long wait for any response—up to a day. And that whole day, I have difficulty breathing. I have heard that there are other detainees who are sick and have COVID-19. It makes me feel very anxious because of having asthma, and my condition continues to get worse.
7. None of the staff at the detention center who I have interacted with speak Spanish. One of the other detainees in Unit A, Amaury Reyes Batista, is my translator because he is the only person in our unit who is bilingual. It has been very difficult to communicate my medical needs around my asthma because of this, and I need Mr. Reyes Batista to translate for me. It has been difficult getting language access for detainees here who don't speak English. There is another man in my block who is from Guatemala and speaks an indigenous language better than Spanish, and there is no one who can translate for him.
8. This declaration was read to me in Spanish, and I swear it is true. I have authorized Melanie Gleason, Esq., staff attorney at Lawyers for Civil Rights, to sign for me.

Dated: May 1, 2020

/s/ Melvin Alberto Mateo Mateo

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Melvin Alberto Mateo Mateo