

1
2
3
4
5
6
7
8 **United States District Court**
9 **Central District of California**
10 **Western Division**
11

12 KELVIN HERNANDEZ ROMAN, *et al.*,

ED CV 20-00768 TJH

13 Petitioners-Plaintiffs,

14 v.

Order

15 CHAD T. WOLF, *et al.*,

[818]

16 Respondents-Defendants.
17
18

19 The Court has considered the Special Master's First Report and
20 Recommendation, issued on November 18, 2020, concerning future COVID-19 testing
21 protocols to be followed at the Adelanto Detention Center ["Adelanto"], together with
22 the objections filed by Petitioners-Plaintiffs, the Government's response to the
23 objections, the Special Master's response to the objections, and counsels' emails to the
24 Special Master, which the Special Master provided to the Court.

25 The Court accepts, in part, and rejects, in part, the Special Master's
26 recommendations for testing protocols, as set forth below.

27 This Order is based on the current, and alarming, level of COVID-19 spread in
28 the community throughout the State of California, and especially within the Central

1 District of California; the extremely limited availability of hospital beds within the
 2 Central District, and, indeed, the entire state; that the Central District has activated its
 3 Continuity of Operations Plan based on the severity of the COVID-19 pandemic; that
 4 the class members are constitutionally entitled to conditions of civil confinement that are
 5 free from substantial risk of suffering serious harm, including the harm from the
 6 COVID-19 pandemic; and that the Government owes a duty to the class members, as
 7 civil immigration detainees, to reasonably abate all known risks to them while they are
 8 detained.

9 This Order supplements, not supplants, the Court's prior orders. Accordingly,
 10 the Government shall continue to strictly implement and enforce the Court's prior
 11 orders regarding masking, cleaning, housing, and social distancing.

12 13 **Definitions**

14 The following definitions shall apply to this Order:

- 15 1. "Saturation testing" means the testing for COVID-19 of all Adelanto staff
 16 and all Adelanto detainees once each week for a period equal to the greater
 17 of:
 18 A. Four consecutive weeks; or
 19 B. Until the number of positive COVID-19 tests drops below the
 20 threshold positive test number that triggered the saturation testing.
- 21 2. "COVID-19 test" means the most appropriate COVID-19 test as
 22 determined by Adelanto's medical staff.
- 23 3. A person shall be deemed "suspected of having COVID-19" if that person
 24 has been in "close contact" with, or has had "other high-risk exposure" to,
 25 someone who was confirmed positive for COVID-19; exhibits any
 26 symptom of COVID-19 recognized by the United States Centers for
 27 Disease Control; or is otherwise suspected of being positive for COVID-
 28 19.

- 1 4. “Close contact” means being within six feet of another person, who was
2 confirmed positive for COVID-19 or is suspected of having COVID-19,
3 for a total of 15 minutes in a 24-hour period.
- 4 5. “Other high-risk exposure” means any instance when a person is exposed
5 to someone else who was confirmed positive for COVID-19 or is suspected
6 of having COVID-19 and who sneezed or coughed in the presence of that
7 person.
- 8 6. “Symptoms of COVID-19 recognized by the United States Centers for
9 Disease Control” include fever or chills, cough, shortness of breath or
10 difficulty breathing, fatigue, muscle or body aches, headache, new loss of
11 taste or smell, sore throat, congestion or runny nose, nausea or vomiting,
12 and diarrhea.

13 14 **Routine Weekly Testing**

15 During those weeks that the Government is not conducting saturation testing at
16 Adelanto, it shall conduct random COVID-19 tests of Adelanto’s staff and detainees as
17 follows:

- 18 1. The Government shall randomly test at least 20% of Adelanto’s staff for
19 COVID-19. If a staff member tests positive, the Government shall conduct
20 saturation testing on all detainees in every housing unit in which that staff
21 member had entered in the previous 14 days. If a staff member returns to
22 work after testing positive, but before being cleared to return to work by
23 a licensed healthcare professional, the Government shall conduct saturation
24 testing of all detainees in all housing units that that staff member entered.
- 25
26 2. The Government shall, also, randomly test at least 20% of the total
27 number of detainees in each of Adelanto’s housing units for COVID-19.
28 Detainees who have had a positive test result in the preceding 90 days shall

not be tested and shall not be used to satisfy the 20% requirement. If the Government cannot test 20% of a housing unit's population because greater than 80% of its population has had a positive test in the preceding 90 days, additional detainees shall be randomly selected from the facility as a whole for testing until the total number of detainees tested is 20% of the total number of detainees in the facility.

Isolation

1. The Government shall isolate and test any Adelanto detainee who is suspected of having COVID-19.
2. The Government shall, also, isolate and test all Adelanto detainees in any housing unit where another detainee in that unit has tested positive for COVID-19.

Saturation Testing in Response to Positive Tests

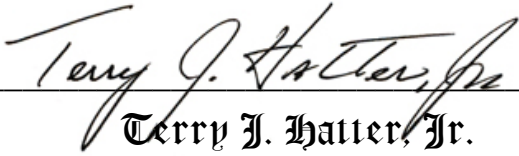
1. The Government shall immediately begin saturation testing of all Adelanto detainees and Adelanto staff whenever there are:
 - A. Three or more positive COVID-19 tests in a week among any combination of Adelanto staff and/or Adelanto detainees;
 - B. One or more detainees with a positive COVID-19 test in a housing unit on the East side of Adelanto at the same time that there is one or more detainees with a positive COVID-19 test in a housing unit on the West side of Adelanto;
 - C. Two or more detainees with a positive COVID-19 test in a housing unit on the East side of Adelanto; or
 - D. Three or more detainees with a positive COVID-19 test in a housing unit on the West side of Adelanto.
2. The Government shall immediately inform the Court, the Special Master,

1 and Petitioners-Plaintiffs' counsel whenever it initiates saturation testing
2 pursuant to this Order or for any other reason.

3
4 This Order shall remain in effect pending further order of the Court.

5
6 IT IS SO ORDERED.

7
8 Date: December 21, 2020

9
10 
11 Terry J. Hatter, Jr.
12 Senior United States District Judge
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28