

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ADHAM AMIN HASSOUN,

Petitioner,

Case No. 1:19-cv-370-EAW

v.

JEFFREY SEARLS, in his official capacity
as Acting Assistant Field Office Director and
Administrator, Buffalo Federal Detention
Center,

Respondent.

DECLARATION OF JEFFREY SEARLS

Pursuant to the provision of 28 U.S.C. § 1746, I, JEFFREY SEARLS, hereby declare and state as follows:

1. I am an Officer in Charge (“OIC”) with the Department of Homeland Security, Immigration and Customs Enforcement (“ICE”), Enforcement and Removal Operations. I have held this position since September 2018. Prior to this position, I was the Assistant Officer in Charge from May 2017 to September 2018. I have worked in other positions within ICE since March 2001.

2. As the OIC, I am responsible for the direction and oversight of the Buffalo Federal Detention Facility (“BFDF”). My responsibilities include maintaining the order of the BFDF and preserving the health and safety of detainees and staff at the BFDF. The mission of the BFDF is to provide for and maintain a set of standards and conduct, ensuring that detainees are treated with respect and dignity and are provided with the best possible care while they are in the custody of the facility.

THE NUMBER OF CONFIRMED COVID-19 CASES IN BFDF

3. On April 17, 2020, there were 17 detainees with confirmed cases of COVID-19 at BFDF.

THE PROXIMITY OF THE COVID-19 PATIENTS TO PETITIONER'S CELL

4. The Petitioner is currently housed in the Special Housing Unit (SHU).

5. 15 of the COVID-19 positive individuals are quarantined in Unit C1, which is not within the SHU, and 2 are housed in the SHU.

6. The COVID-19 positive detainees housed in the SHU cannot be currently quarantined in a non-SHU dormitory pod as a result of a U.S. District Court order, unrelated to this case.

7. These detainees are housed, at all times, over fifty feet away from the Petitioner.

WHETHER AND HOW COVID-19 PATIENTS ARE BEING MOVED WITHIN THE FACILITY

8. All COVID-19 confirmed individuals, including these 17 detainees, will remain isolated unless hospitalization or medical care outside of the 24/7 medical care that is available at BFDF is required, and until a medical professional determines that they are no longer contagious consistent with CDC guidelines.

9. All movements of suspected and confirmed COVID-19 positive detainees take place only when necessary and while the detainees wear N95 masks. Movement is limited to legal and medical needs, showers and phone calls.

WHAT ACCESS THE COVID-19 PATIENTS HAVE TO SHARED AREAS AND ITEMS

10. The Petitioner has access only to items designated for his exclusive use. He does not have access to any items or areas that are shared with COVID-19 positive detainees or COVID-19 suspected detainees. For example, the Petitioner has his own shower, toilet, sink, and tablet; he shares a phone room and recreation yard with certain other detainees, but those areas are not accessible by COVID-19 positive or COVID-19 suspected detainees.

11. Close contacts of confirmed or suspected COVID-19 cases who are detainees have been quarantined in Units B2 and A1 will remain quarantined for 14 days and will be monitored for symptoms. Staff who had contact with the individuals who tested positive have been placed on sick leave and are not permitted to return to BFDf until the end of the 14 day incubation period or until cleared by a medical professional in accordance with the New York Department of Health's *Protocols for Essential Personnel to Return to Work Following COVID-19 Exposure or Infection*.

12. In light of the 17 confirmed COVID-19 cases, the units in which these individuals were housed, as well as the bathrooms and common areas they visited, were thoroughly cleaned and disinfected.

**ANY ADDITIONAL PROTOCOLS THAT HAVE BEEN PUT IN PLACE TO HALT
THE SPREAD OF COVID-19 OR
ANY ALTERATIONS TO EXISTING PROTOCOLS**

13. Additional protocols have been put in place for the prevention and handling of COVID-19. On April 10, 2020, ICE ERO released its *COVID-19 Pandemic Response Requirements (PRR)*, a guidance document that builds upon previously issued guidance and sets forth specific mandatory requirements expected to be adopted by all detention facilities housing ICE detainees, as well as best practices for such facilities, to ensure that detainees are appropriately housed and that available mitigation measures are implemented during

this unprecedented public health crisis. U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, *COVID-19 Pandemic Response Requirements* (Apr. 10, 2020), <https://www.ice.gov/sites/default/files/documents/Document/2020/eroCOVID19responseReqsCleanFacilities.pdf>.

14. Additional protocols at BFDF include, among other things:
 - a. Detainees are now permitted to eat their meals in their bunk area as well as throughout the common area.
 - b. Signs have been posted throughout the detention areas to remind detainees to maintain social distancing.
 - c. Instructing as to the importance of personal hygiene practices and not touching one's face, frequent hand washing and limiting physical contact.
 - d. The maintaining of social distances between and among employees and detainees.
15. BFDF medical staff is prioritizing immediate medical care for anyone who claims symptoms indicative of COVID-19 infection.
16. New arrivals are medically screened in the garage bay prior to entering into the facility. This includes questioning the detainee as to health history and performing temperature checks. New arrivals are then placed in a specifically designated intake for two weeks prior to entering general population.
17. Personal protective equipment ("PPE") availability:
 - a. Masks have been placed in all the units for detainee use and have been made available at all times. These masks are "soft masks," and N95 masks.
 - b. Staff at BFDF is required to use masks when entering a housing unit.
 - c. All officers have been fit tested and issued five N95 masks and will be issued more as required. All officers have access to gloves.
 - d. Meal carts are delivered by kitchen staff wearing gloves. Kitchen staff does not enter the housing unit.

18. Employees have been urged to stay home if they are ill and expanded paid time off policies have been implemented for sick employees or those caring for ill family members.

19. ICE is currently reviewing its detained “at risk population” as identified by the CDC guidelines to determine if detention remains appropriate, considering the detainee’s health, public safety and mandatory detention requirements, and adjusting custody conditions, when appropriate, to protect health, safety and well-being of its detainees.

20. Working closely with our government partners to suspend visitation at facilities as necessary. Currently visitation is limited to detainees’ attorneys only.

a. Attorneys visiting clients are asked to use the “no-contact” rooms which have a plastic partition separating detainees from their counsel. Attorneys who refuse to use the no-contact rooms are required to wear PPE including face masks and gloves to limit the transmission of any illness or infection that attorneys may have from spreading to their clients. Attorneys are responsible for providing their own PPE as BFDF does not have the resources to equip attorneys with PPE.

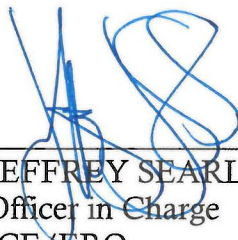
21. Showering facilities, restrooms, and availability of soap/handwashing:

- a. Additional soap was added to all restrooms and housing units to increase the availability and encourage the washing of hands.
- b. Detainees can ask unit officers for soap at any time.
- c. Dorms have two communal restrooms that are available at all times. There are two toilets and one urinal in each bathroom. There are three sinks in each restroom. The restrooms are continually stocked with soap.
- d. In addition to the restrooms, the dorm units have a kitchenette unit with a sink, which also has soap available.
- e. Shower rooms consist of four shower heads in both dorm and cell housing units. There are no stalls. Typically, in dorm housing, two detainees may shower at once. In cell housing, generally one detainee showers at a time. A shower schedule has been implemented throughout the facility to insure social distancing.

- f. Detainees have access to disinfectant spray to clean the toilets, urinals and shower whenever they choose, in addition to the routine cleaning of the bathrooms that is taking place twice per day.
22. Telephone use:
- a. Telephones are located in the housing units. Celled units have ten phones, dorms have seven phones.
 - b. Disinfectant spray is available at all times for the detainees to use to clean phones, bunks, etc.
 - c. Detainee workers in the housing units have been cleaning and wiping down all hard surfaces three times a day in addition to their normal cleaning detail. This cleaning includes telephones.
23. Work programs, religious services, and any other activities in which crowds may congregate or increased contact between detainees may occur have been temporarily suspended. The outdoor recreation area is clearly marked to provide for six-foot spacing between detainees choosing to use this area.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 17, 2020
Batavia, New York



JEFFREY SEARLS
Officer in Charge
ICE/ERO