



U.S. Department of Justice

*United States Attorney
Western District of New York*

*138 Delaware Avenue
Buffalo, New York 14202*

*100 State Street
Rochester, New York 14614*

April 20, 2020

Hon. Lawrence J. Vilardo
United States District Judge
Robert H. Jackson United States Courthouse
2 Niagara Square
Buffalo, New York 14202

Hon. Elizabeth A. Wolford
United States District Judge
Kenneth B. Keating Federal Building
100 State Street
Rochester, New York 14614

Dear Judge Vilardo and Judge Wolford:

Please allow this letter to serve as an update on the ongoing efforts made by the Department of Homeland Security (“DHS”), Immigration and Customs Enforcement (“ICE”) to safeguard persons in its custody during the ongoing Coronavirus disease 2019 (“COVID-19”) pandemic.

The Buffalo Federal Detention Facility (“BFDF”) received the first test results confirming that detainees at the facility who were tested beginning on April 8, 2020, had contracted COVID-19. Since that time, there had been approximately 1-2 positive tests confirming COVID-19 per day. With respect to testing taken as of April 15, 2020, 19 detainees were later found to be positive for COVID-19. Twelve of those cases arose in the B2 housing unit, which is a communal dormitory unit with bunk beds, as opposed to cells, for housing.¹

¹ The other seven individuals who tested positive were new detainees who were quarantined in the intake dorm at the time they were tested.

All 19 detainees were placed into quarantine, but the 14-day quarantine period continued to reset with the addition of a new member. To avoid continually resetting the 14-day quarantine period suggested by the Centers for Disease Control (“CDC”), the entire population of the B2 housing unit was tested, regardless of whether they were displaying any symptoms at all (and a vast majority were not). That testing of the entire population of B2 resulted in the testing of an additional 48 detainees. Of those 48 detainees, 27 tested positive. Thus, there are currently 46 detainees at the BFDF who have tested positive for COVID-19.² All 46 detainees have been placed in quarantined housing units.

The increase in the number of confirmed cases is largely the result of testing the entirety of the B2 unit. The increased number of confirmed cases is also a result of the widespread testing being performed at the BFDF in general. Of the 319 detainees at the BFDF, 76 have been tested, which is approximately 23.8% of the detainee population. By contrast, general testing in the United States has only comprised about 0.7% of the population.³ It must be noted that a vast majority of the detainees who were tested were asymptomatic, and may not have even been tested if they were members of the general public.⁴

To date, only two detainees have required hospitalization. One was hospitalized upon the belief he had suffered a heart attack, but he was admitted overnight and diagnosed with COVID-19. He was returned to the BFDF the following day. The second detainee was taken to the hospital and returned to the BFDF within hours.

The BFDF continues to maintain separate housing units for all those who have tested positive to keep them apart from uninfected individuals. Should the need arise, BFDF staff is able to transport those at risk for serious health consequences to local hospitals. As previously noted, however, hospitalization has not been required, and hospital staff returned detainees to the BFDF to recuperate. As discussed in previous submissions by the Government, BFDF and ICE staff have instituted measures to help reduce the spread of the contagion, and are continually monitoring the health of those affected.

Should you have any questions or concerns about the ongoing response by the BFDF to ensure the safety and health of those detained, please do not hesitate to contact this Office.

² Another 26 individuals were tested, of which 20 returned negative results and 6 required the taking of test samples to be repeated. The results for the repeated tests are pending.

³ The CDC website indicates that 2,313,702 tests have been performed. *See* <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/covidview/index.html>. The Census Bureau website states that as of April 19, 2020, the population of the United States was 329,536,858. *See* <https://www.census.gov/popclock>.

⁴ These results are also consistent with the results reached in a recent study finding that the number of people infected with coronavirus may be far greater than previously thought. *See* <https://www.theguardian.com/world/2020/apr/17/antibody-study-suggests-coronavirus-is-far-more-widespread-than-previously-thought>.

Very truly yours,

JAMES P. KENNEDY, JR.
United States Attorney
Western District of New York

By: /s/ David M. Coriell
DAVID M. CORIELL
Assistant U.S. Attorney

/s/ Adam A. Khalil
ADAM A. KHALIL
Assistant U.S. Attorney

/s/ Daniel B. Moar
DANIEL B. MOAR
Assistant U.S. Attorney