

## **DECLARATION OF DR. DORA SCHRIRO**

I, Dora Schriro, declare as follows:

### **BACKGROUND AND QUALIFICATIONS**

1. I am a career public servant who has served as an executive-level administrator, policy maker, and homeland security advisor. I have been appointed to lead a number of city and state agencies and a federal office.

2. I was the Commissioner of the Connecticut Department of Emergency Services and Public Protection consisting of six state agencies including the Connecticut State Police and Homeland Security and Emergency Management, from 2014 through 2018. I served concurrently as Connecticut's Homeland Security Advisor from 2016 through 2018. My Department of Homeland Security (DHS) security clearance was Top Secret. During my tenure as Director, we grappled with Ebola and through our Division of Emergency Management and Homeland Security, developed a protocol specifically for the state's first responders. Additionally, as the state's Homeland Security Advisor, I interfaced with many of the DHS offices and agencies on an ongoing basis including the Federal Emergency Management Agency with which we had an active and ongoing partnership.

3. I was Senior Advisor to DHS Secretary Janet Napolitano on U.S. Immigration and Customs Enforcement (ICE) Detention and Removal, and the founding Director of the ICE Office of Detention Policy and Planning in 2009. During my tenure, I authored the report, Immigration Detention Overview and Recommendations, DHS' template for immigration detention reform. My report included a number of recommendations specific to risk assessments, the continuum of control, pre-release planning, alternatives to detention, and healthcare. Specific to healthcare, I found the assessment, treatment, and management of pandemic and contagious diseases was inconsistent across Division of Immigration Health Services (DIHS)-staffed and non-dedicated Intergovernmental Service Agreement (IGSA) facilities and recommended improvements should be made to ensure that all facilities are capable of managing large-scale outbreaks. Unfortunately, these deficiencies were not addressed and continue to impact health care in the detention facilities today. At the invitation of DHS Secretary Jeh Johnson, I also served in 2015 and 2016 as a member of the DHS Advisory Committee on Family Residential Facilities and co-authored its report.

4. I was the Commissioner of two city jail systems: the St. Louis City Division of Corrections, which included the St. Louis Police Department Prison Intake Facility, from 2001 to 2003; and the New York City (NYC) Department of Correction from 2009 to 2014. I was also the Warden of the Medium Security Institution, a jail in St. Louis City, Missouri, from 1989 to 1993. During my tenure as Warden, I routinely released pretrial inmates, conditioned upon daily check-in and random drug testing, to comply with a court-ordered facility population cap. During my tenure as Commissioner of the NYC Department of Correction, I opened NYC's first centralized reception and diagnostic facility in which a comprehensive risk assessment, custody classification, and gang identification were completed, and discharge planning was initiated. I also created pre-trial and post-plea diversion opportunities for the mentally ill and seriously mentally ill jail population and special housing for the young adult population. During an earlier

appointment to the NYC Department of Correction as Assistant Commissioner for Programs Services from 1985 to 1989, I also oversaw the city's work release program for pre-trial and city-sentenced inmates.

5. I was the Director of two state correctional systems: the Missouri Department of Corrections, which encompassed state prisons, probation, and parole, from 1993 to 2001; and the Arizona Department of Corrections, which encompassed state prisons and parole, from 2003 to 2009. During my tenure as Director of the Arizona Department of Corrections, the department was the first correctional system to be selected Winner of the Innovations in American Government awards program for a prison-based reform, which we called Parallel Universe. Our systemwide initiative provided pre-release preparation in which all inmates participated from the first to the last day of their incarceration guided by norms and values closely mirroring those of the community. As Director of the Missouri Department of Corrections, I also served on the state's Sentencing Commission.

6. I was a member of the adjunct faculties of University of Missouri-St. Louis Department of Criminology from 1990 to 1998, St. Louis University School of Law from 2000 to 2002, and Arizona State University Sandra Day O'Connor School of Law from 2005 to 2008, during which time I taught graduate-level Criminology and Correctional Law courses and led Sentencing Seminars.

7. I have served continuously on the Women's Refugee Commission since 2012, and the American Bar Association (ABA) Commission on Immigration since 2014.

8. I am knowledgeable about the American Correction Association and ICE detention standards, including standards applicable to Medical Care, Disability Identification, Assessment and Accommodations, and Classification Systems which is premised on objective, evidence-based risk assessments as the basis for in-custody housing and community-based assignments by the least restrictive means consistent with those assessments. I have also participated in the development of ABA professional standards for both correctional systems and ICE detention facilities. I am familiar with the California Board of State and Community Corrections Title 15 Minimum Standards for Local Detention Facilities. I am also familiar with bond procedures in state, federal, and immigration courts.

9. I am knowledgeable about the case law and the actual operation of immigration detention and jail and prison systems, as well as the individuals in the custody of the different systems.

10. I have served as a Corrections expert to the California Department of Justice, the American Civil Liberties Union, Disability Rights California, and the Hampton County, Massachusetts Sheriff's Department. I am currently engaged by the California Department of Justice, the American Civil Liberties Union, the Southern Poverty Justice Center, Human Rights First, and the St. Louis University School of Law Legal Clinics.

11. A complete and correct Resume, which includes a list of my publications from the last ten years, is attached as Appendix A.

12. In the previous four years, I have testified as an expert at trial or by deposition in the following case: *Endicott v. Hurley*, No. 2:14-cv-107 DDN (E.D. Mo.).

### **EXPERT ASSIGNMENT**

13. Plaintiffs' counsel has asked me, based on my expertise in the operation of civil and criminal detention systems, including those used to house ICE detainees, and on my review of the case-specific documents outlined below, to address whether conditions at the Wyatt Detention Facility ("Wyatt") in Central Falls, Rhode Island, place ICE detainees housed at that facility at risk of contracting COVID-19. Wyatt is a detention facility operated by the Central Falls Detention Facility Corporation (CFDFC), a quasi-public corporation, which detains immigration detainees under contract with ICE. ICE accesses the facility by means of a rider with the USMS, which has an IGSA with Central Falls Detention Facility Corporation. Plaintiffs' counsel further asked me to address whether alternatives to detention can be used to release ICE detainees from the facility while maintaining public safety and ensuring compliance with court orders.

14. I have reviewed the following documents and rely on them in support of my findings and conclusions:

- a. Declaration of Gagik Mkrtchian
- b. Declaration of Oscar Yanes
- c. Status reports from Wyatt from 4/20/2020 through 5/11/2020
- d. Declaration of Dr. Joseph Amon in this case
- e. The IGSA between USMS and Wyatt, and the ICE rider
- f. The Wyatt detainee handbook
- g. The most recent Nakamoto Group Inspection Report of Wyatt (April 11, 2019)

### **FINDINGS AND CONCLUSIONS**

#### **ICE Response to COVID-19**

15. According to the World Health Organization, COVID-19 has reached pandemic status.<sup>1</sup> There is no vaccine to prevent transmission, and there is no cure for COVID-19.<sup>2</sup> The likelihood of its recurrence is great.<sup>3</sup> A total of 4,434,590 people has been diagnosed with COVID-

---

<sup>1</sup> European Regional Office, *WHO Announces COVID-19 Outbreak a Pandemic*, WORLD HEALTH ORG. (Mar. 12, 2020), <http://www.euro.who.int/en/health-topics/health-emergencies/coronavirus-covid-19/news/news/2020/3/who-announces-covid-19-outbreak-a-pandemic>.

<sup>2</sup> *Coronavirus Disease 2019 (COVID-19): Situation Summary*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html> (last updated Mar. 21, 2020).

<sup>3</sup> Ed Yong, *How the Pandemic Will End*, ATLANTIC (Mar. 25, 2020), <https://www.theatlantic.com/health/archive/2020/03/how-will-coronavirus-end/608719/>.

19 and 302,025 people have died.<sup>4</sup> The United States is now the epicenter of the epidemic, with 1,416,528 diagnosed cases and 85,813 deaths. The State of Rhode Island has 12,016 confirmed cases and 468 deaths as of May 12.<sup>5</sup> Providence County, where the Donald W. Wyatt Detention Facility (Wyatt) is located, has 3,913 positive cases.<sup>6</sup> Immigrations and Customs Enforcement (ICE) reported it has tested only 1,804 detainees to date, of which 965 detainees (53%) have confirmed cases of COVID-19 including two detainees housed at Wyatt.<sup>7</sup> An additional 44 ICE employees assigned to detention facilities have also tested positive for COVID-19.<sup>8</sup>

16. The World Health Organization, the Centers for Disease Control and Prevention, and other public health experts recommend the use of social distancing and other preventive strategies as well as sound screening, quarantine, and testing practices to control the virus.<sup>9</sup> The Vera Institute of Justice and Community-Oriented Correctional Health Services recognizing the impracticality of social distancing in institutional environments, further recommend that authorities in correctional and immigration detention settings “[u]se their authority to release as many people from their custody as possible.”<sup>10</sup>

17. I have reviewed the relevant guidance released by ICE and the CDC: The ICE Health Service Corps (IHSC) Interim Guidance, issued on March 6, 2020;<sup>11</sup> the updated ICE statement on changes to enforcement operations, issued on March 18, 2020;<sup>12</sup> the ICE memorandum on COVID-19, issued on March 27, 2020;<sup>13</sup> the ICE guidance on release of medically vulnerable individuals, issued on April 4, 2020;<sup>14</sup> the ICE Enforcement and Removal Operations COVID-19 Pandemic Response Requirements issued on April 10, 2020 (“ERO

---

<sup>4</sup> *COVID-19 Dashboard*, JOHNS HOPKINS UNIV., <https://coronavirus.jhu.edu/map.html> (last updated May 14, 2020).

<sup>5</sup> *COVID-19 Data Tracker*, R.I. ST. DEP’T OF HEALTH, <https://ri-department-of-health-covid-19-data-rihealth.hub.arcgis.com/> (last updated May 14, 2020).

<sup>6</sup> *Id.*

<sup>7</sup> *ICE Guidance on COVID-19: Confirmed Cases*, U.S. IMMIG. & CUSTOMS ENFORCEMENT, <https://www.ice.gov/coronavirus> (as updated May 14, 2020) [hereinafter ICE Guidance].

<sup>8</sup> *Id.*

<sup>9</sup> *Coronavirus Disease Advice for the Public*, WORLD HEALTH ORG., <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public> (last updated Mar. 18, 2020); *How to Protect Yourself*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/prepare/prevention.html> (last updated Mar. 18, 2020); Saralyn Cruickshank, *Now Is not the Time to Ease Social Distancing Measures, Experts Say*, HUB JOHNS HOPKINS U. (Mar. 24, 2020), <https://hub.jhu.edu/2020/03/24/no-time-to-ease-social-distancing/>.

<sup>10</sup> COMMUNITY-ORIENTED CORRECTIONAL HEALTH SERVICES & VERA INSTITUTE OF JUSTICE, GUIDANCE FOR PREVENTIVE AND RESPONSIVE MEASURES TO CORONAVIRUS FOR JAILS, PRISONS, IMMIGRATION DETENTION AND YOUTH FACILITIES 2 (Mar. 18, 2020), available at <https://cochs.org/files/covid-19/covid-19-jails-prison-immigration.pdf>.

<sup>11</sup> ICE HEALTH SERVICE CORPS, INTERIM REFERENCE SHEET ON 2019-NOVEL CORONAVIRUS (COVID-19) (Mar. 6, 2020) [hereinafter IHSC Interim Reference Sheet].

<sup>12</sup> *Updated ICE Statement on COVID-19*, ICE NEWS RELEASES (Mar. 18, 2020), <https://www.ice.gov/news/releases/updated-ice-statement-covid-19> [hereinafter March 18 ICE Statement].

<sup>13</sup> See ICE Enforcement and Removal Operations, *Memorandum on Coronavirus Disease 2019 (COVID-19) Action Plan, Revision 1*, U.S. IMMIG. & CUSTOMS ENFORCEMENT (Mar. 27, 2020), <https://www.ice.gov/doclib/coronavirus/attF.pdf> [hereinafter March 27 ICE Memorandum].

<sup>14</sup> Email from Peter B. Berg, Assistant Dir. of Field Operations, ICE, to Field Office Dirs. and Deputy Field Office Dirs., ICE (Apr. 4, 2020, 5:17 PM) (detailing ICE’s protocols for the release of medically vulnerable detainees) [hereinafter ICE Release Guidance].

COVID-19 PRR”);<sup>15</sup> and the CDC guidance on managing coronavirus disease 2019 in correctional and detention facilities, issued March 23, 2020.<sup>16</sup>

18. It is my opinion, based on years of my experience as Warden of a city jail, Commissioner of four correctional systems, Commissioner of an emergency services and homeland security agency, a state’s CT Homeland Security Advisor, and Director of the ICE Office of Detention Policy and Planning, and my continuing oversight and assessments of correctional and immigration detention facilities in the capacity as an Expert, that the plans that ICE has put forth are insufficient to protect the detained population, detention staff, and the public at-large. ICE, a federal agency, requires a robust *national* response to COVID-19, a plan that encompasses all detention facilities, is supported by a unified system of health care, one that meets all CDC requirements, and contemplates a continuum of control that includes alternatives to detention. ICE has yet to promulgate and put that plan into place.

19. The situation in correctional and detention facilities is dire. The CDC’s May 6 Morbidity and Mortality Weekly Report includes a compilation of aggregate data from January 21 through April 28 submitted by 37 of 54 state and territorial health department jurisdictions of which, 32 of the 37 departments reported at least one laboratory-confirmed case from a total of 420 correctional and detention facilities. Among these facilities, COVID-19 was diagnosed in 4,893 incarcerated or detained persons and 2,778 facility staff members, resulting in 88 deaths in the confined population and 15 deaths among staff members.<sup>17</sup> Another study released in April demonstrates that between 72% and 99% of immigration detainees are likely to become infected with COVID-19 within the next 90 days.<sup>18</sup>

20. As explained more thoroughly below, ICE is not conducting the kind of symptomatic screening and comprehensive testing necessary to show the full scope of the spread of COVID-19 in immigration detention. However, the limited testing that they have conducted demonstrates the speed at which COVID-19 is spreading in immigration detention. ICE announced the first positive COVID-19 detainee on March 24.<sup>19</sup> On April 9, just 37 detainees had tested positive for COVID-19.<sup>20</sup> A month later, on May 14, the number had increased to

---

<sup>15</sup> IMMIGRATION AND CUSTOMS ENFORCEMENT, ENFORCEMENT AND REMOVAL OPERATIONS, COVID-19 PANDEMIC RESPONSE REQUIREMENTS 11 (Apr. 10, 2020) [hereinafter ERO COVID-19 PRR].

<sup>16</sup> CDC, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, CTRS. FOR DISEASE CONTROL & PREVENTION (Mar. 23, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html> [hereinafter CDC, *Interim Guidance*].

<sup>17</sup> CDC Centers for Disease Control and Prevention, Morbidity and Mortality Weekly Report, Early Release, Vol. 69, May 6, 2020, “COVID-19 in Correctional and Detention Facilities – United States – February-April 2020,” [https://www.cdc.gov/mmwr/volumes/69/wr/mm6919e1.htm?s\\_cid=mm6919e1\\_w](https://www.cdc.gov/mmwr/volumes/69/wr/mm6919e1.htm?s_cid=mm6919e1_w).

<sup>18</sup> Michael Irving et al., *Modeling COVID-19 and Impacts on U.S. Immigration and Enforcement (ICE) Detention Facilities, 2020*, J. URBAN HEALTH (2020), available at [https://whistleblower.org/wp-content/uploads/2020/04/Irvine\\_JUH\\_ICE\\_COVID19\\_model.pdf](https://whistleblower.org/wp-content/uploads/2020/04/Irvine_JUH_ICE_COVID19_model.pdf).

<sup>19</sup> Priscilla Alvarez and Catherine E. Shoichet, *First ICE Detainee Tests Positive for Coronavirus*, CNN (Mar. 24, 2020), <https://www.cnn.com/2020/03/24/us/ice-detainee-coronavirus/index.html>.

<sup>20</sup> *ICE Guidance*, *supra* note 7 (as updated Apr. 9, 2020).

965.<sup>21</sup> A staggering number of those cases are at a single facility, Otay Mesa, which had 149 cases on May 14.<sup>22</sup>

21. The reason for the rapid spread of infectious disease, including COVID-19, in immigration detention is straightforward: prompt identification of COVID-19 cases utilizing symptom screening and conducting adequate testing, and consistent application of preventive measures such as valid quarantine methods are not in place. As Dr. Amon stated, “The understanding of direct transmission as the most likely means of SARS-CoV-2 transmission, combined with evidence of asymptomatic and pre-symptomatic transmission suggests that ... the main strategy for limiting disease transmission is social distancing and that in order for such distancing to be effective it must occur before individuals display symptoms.”<sup>23</sup> ICE has yet to adequately address the frequency with which detainees come into contact with one another, the lack of basic cleaning and sanitization supplies and PPE to mitigate the risk when such encounters occur, or staff’s continuing non-compliance with CDC recommendations. The limited measures that ICE has taken are insufficient and simply do not allow detainees to practice either the social distancing to avoid exposure or the sanitation and hygiene necessary to remediate exposure to protect themselves from contracting COVID-19. So it is, COVID-19 has made its way into Wyatt, and there is every reason to believe that conditions there will allow it to spread. Because ICE fails to follow CDC recommendations it is also likely ICE will not know until it is too late.

22. ICE is comprised primarily of law enforcement personnel with extensive expertise performing removal functions, but not in the design and delivery of detention facilities and community-based alternatives.<sup>24</sup> ICE has not yet established a system of immigration detention with the requisite management tools and informational systems to detain and supervise the people in its custody in settings consistent with assessed risk. ICE utilizes a number of disparate strategies to detain the persons in its custody notably, county jails, private prisons, and shared-used facilities that combine local, state and federal inmates, all of which generally impose far more requirements than are needed to ensure their compliance upon release to the community, and it does not have a unified system for the delivery of health care. Also, of great concern, and quite evident in the instruction and requirements ICE has produced in the last several months in response to COVID-19, it has not yet created capacity within the organization to assess and improve detention operations.

23. Jails, prisons, and immigration detention facilities are notorious amplifiers of infectious disease.<sup>25</sup> A large number of state and local correctional systems recognizing the harm they can cause by failing to act timely and effectively, have taken affirmative actions to reduce the size of their systems to curb the spread of the coronavirus disease and are realizing positive results. ICE, which operates the largest system of incapacitation in the country, has lagged in its

---

<sup>21</sup> *Id.* (as updated May 14, 2020).

<sup>22</sup> *Id.*

<sup>23</sup> Joseph J. Amon Declaration, ¶ 14.

<sup>24</sup> DORA SCHRIRO, IMMIGRATION DETENTION OVERVIEW AND RECOMMENDATIONS (2009), available at <https://www.ice.gov/doclib/about/offices/odpp/pdf/ice-detention-rpt.pdf>.

<sup>25</sup> Kelsey Kauffman, *Why Jails Are Key to “Flattening the Curve” of Coronavirus*, APPEAL (Mar. 13, 2020), <https://theappeal.org/jails-coronavirus-covid-19-pandemic-flattening-curve/>.

efforts to lower its census and to address conditions of detention for those detainees who remain in its custody.

24. These are the primary measures ICE has taken to date, and their outcomes.

25. The ICE Health Service Corp (IHSC) issued Interim Reference Sheet on 2019-Novel Coronavirus (COVID-19), Version 6.0, March 6, 2020, informing its health care staff that revised CDC guidance expanded testing to a wider group of symptomatic patients. However, it directed that providers should use their judgement to determine if a patient has signs and symptoms compatible with COVID-19 and whether the patient should be tested. They were strongly encouraged to test for other causes of respiratory illness including infection such as influenza.<sup>26</sup> The memorandum appeared to achieve its intended effect. While correctional systems were systematically, proactively making efforts and taking steps to identify and address the presence of the coronavirus in their facilities, ICE did not. When they began to report their findings early in April, the differences were stark. The Bureau of Prisons reported 337 confirmed cases of COVID-19 among the inmate population, and eight deaths of inmates.<sup>27</sup> The NYC Department of Correction confirmed 287 cases, and Cook County jails, 238 cases.<sup>28</sup> In comparison, ICE reported in the same timeframe, that 37 detainees and 11 ICE employees assigned to facilities with approximately 33,000 detainees in its custody have tested positive.<sup>29</sup> Subsequently, on April 17, in testimony before the House Committee on Oversight and Reform, ICE disclosed that it had only 400 test kits and would test more detainees if they were available. Three weeks later, on May 7, ICE had tested just 1,460 detainees since the onset of the pandemic,<sup>30</sup> a fraction of its total detained population in those weeks.<sup>31</sup> None of ICE's daily updates of positive cases includes confirmed cases among its third-party providers who staff and operate all of its detention facilities.<sup>32</sup> ICE's refusal to provide this information would only undercut an earnest effort to secure additional kits. ICE has refused to provide confirmed cases of vendors and contractors.<sup>33</sup>

26. The ICE newsroom issued Updated Statement on COVID-19 on March 18, 2020. ICE Enforcement and Removal Operations (ERO) will focus enforcement on public safety risks and individuals subject to mandatory detention based on criminal grounds. ICE notified Congress that it will halt arrests except for those deemed "mission critical" to "maintain public

---

<sup>26</sup> IHSC Interim Reference Sheet, *supra* note 11.

<sup>27</sup> Timothy Williams & Danielle Ivory, *Chicago's Jail Is Top U.S. Hot Spot as Virus Spreads Behind Bars*, N.Y. TIMES (Apr. 8, 2020), <https://www.nytimes.com/2020/04/08/us/coronavirus-cook-county-jail-chicago.html>.

<sup>28</sup> *Id.*

<sup>29</sup> ICE Guidance, *supra* note 7 (as updated Apr. 9, 2020).

<sup>30</sup> *Id.* (as updated May 7, 2020).

<sup>31</sup> *Detention Management: Detention Statistics*, U.S. IMMIG. & CUSTOMS ENFORCEMENT, <https://www.ice.gov/detention-management> (last updated May 9, 2020) [hereinafter ICE Detention Management].

<sup>32</sup> Monique O. Madan, *ICE Refuses to Say if its Contractors Have COVID-19. A Federal Judge Just Ordered it to.*, MIAMI HERALD (Apr. 15, 2020), <https://www.miamiherald.com/news/local/immigration/article242022731.html>.

<sup>33</sup> *Id.*

safety and national security.”<sup>34,35</sup> ICE also committed not to conduct enforcement operations at or near health care facilities.<sup>36</sup> In essence, ICE acknowledged its prosecutorial discretion and committed to exercise it. For those individuals who do not fall into those categories, ERO will exercise discretion to delay enforcement actions until after the crisis or utilize alternative to detention, as appropriate. ICE casts a wide net in categorizing individuals as “public safety risks,” and individuals subject to mandatory detention based on criminal grounds includes persons charged but not convicted, and persons who could have been charged.<sup>37</sup>

27. ERO issued a subsequent memorandum, COVID-19 Detained Docket Review, to Field Office Directors and Deputy Directors, on April 4, 2020, providing additional guidance on the release of medically vulnerable individuals pursuant to the March 18 announcement. The field was informed the categories of cases had been expanded to include individuals over the age of 60 and medical conditions listed by the CDC to create a high risk of serious illness or death due to COVID-19, and that the presence of a medical risk factor should be considered a “significant discretionary factor weighing in favor of release,” but cautioned, risk factors may not always be determinative and detainees subject to mandatory detention shall not be released. On April 20, a nationwide court order required ICE to abide by its review but lowered the age to over 55.<sup>38</sup>

28. On April 17, ICE’s posture hardened. Appearing before the House Committee on Oversight and Reform, Acting Director Albence asserted that continued detention during the pandemic is a necessary deterrent to avert a “rush at the borders.”<sup>39</sup> In fact, detention for the express purpose of deterrence for any reason is impermissible, and to knowingly fail to protect at-risk individuals from contracting a deadly disease is unconscionable.

29. Based on my experience at DHS, ICE exercises discretion to release or decline to detain medically vulnerable individuals, even when those individuals are, per statute, mandatorily detained. Regardless of statute, ICE has the capacity to, and in fact does, release medically vulnerable individuals when necessary for public health. The memoranda released on March 18 and April 4 to field office directors and deputy field office directors regarding mandatory detention requirements are unnecessarily restrictive.<sup>40</sup>

---

<sup>34</sup> Maria Sacchetti & Arelis R. Hernández, *ICE to Stop Most Immigration Enforcement Inside U.S., Will Focus on Criminals During Coronavirus Outbreak*, WASH. POST (Mar. 18, 2020), [https://www.washingtonpost.com/national/ice-halting-most-immigration-enforcement/2020/03/18/d0516228-696c-11ea-abef-020f086a3fab\\_story.html](https://www.washingtonpost.com/national/ice-halting-most-immigration-enforcement/2020/03/18/d0516228-696c-11ea-abef-020f086a3fab_story.html).

<sup>35</sup> Ian Kullgren, *ICE to Scale Back Arrests During Coronavirus Pandemic*, POLITICO (Mar. 18, 2020), <https://www.politico.com/news/2020/03/18/ice-to-scale-back-arrests-during-coronavirus-pandemic-136800>.

<sup>36</sup> Sacchetti & Hernández, *supra* note 34.

<sup>37</sup> March 18 ICE Statement, *supra* note 12.

<sup>38</sup> *See Fraihat v. U.S. Immigration & Customs Enf’t*, No. EDCV191546JGBSHKX, 2020 WL 1932570 (C.D. Cal. Apr. 20, 2020).

<sup>39</sup> U.S. House of Representatives, House Committee on Oversight and Reform, *DHS Officials Refuse to Release Asylum Seekers and Other Non-Violent Detainees Despite Spread of Coronavirus*, OVERSIGHT.HOUSE.GOV (Apr. 17, 2020), <https://oversight.house.gov/news/press-releases/dhs-officials-refuse-to-release-asylum-seekers-and-other-non-violent-detainees> [hereinafter *DHS Officials Refuse to Release Asylum Seekers*].

<sup>40</sup> ICE Release Guidance, *supra* note 14.

30. ERO issued Memorandum on Coronavirus Disease 2019 (COVID-19), Action Plan, Revision 1, on March 27, 2020. The revision was applicable only to ICE's 36 IHSC-staffed and non-IHSC staffed, ICE-dedicated facilities.<sup>41</sup> With regards to the remaining 185 locations, all non-dedicated facilities, ICE deferred to local, state, tribal, territorial and federal public health authorities but recommended that actions contained in this memo be considered best practices.<sup>42</sup> The impact of differentiating expectations is significant. ICE allows the conditions of detention for a detainee in a national system of detention to vary not by his or her assessed needs or risk but by location, thereby treating similarly situated detainees differently. Additionally, this Plan references the CDC Interim Guidance<sup>43</sup> but does not require its adoption by either the dedicated or non-dedicated facilities.

31. ERO issued COVID-19 Pandemic Response Requirements, Version 1.0, on April 10, 2020. The Pandemic Response Requirements (PPR) directed all facilities to comply with (a) their respective contract or agreement with ICE, (b) the corresponding detention standards, and (c) the CDC's COVID-19 guidance for correctional and detention facilities, some of which is contrary to or omitted in the instructions issued by ICE. These inconsistencies are significant and impede compliance. ICE headquarters failed again to produce one complete and accurate set of instructions. It is unrealistic to expect that the field has the time or expertise to recognize and reconcile the many substantive differences.

a. *Intake screening.* The CDC requires a screening at intake for signs and symptoms, whereas ICE directs a verbal screening, basically, several questions concerning recent travel and contact. ICE makes no mention of taking the detainee's temperature although it directed that the facilities take that of their staff at the beginning of each shift. The CDC also believes screening should be ongoing whereas ICE expects it would occur at intake only. With 146,628 book-ins and an average length of stay of 56.9 days this year to date,<sup>44</sup> ICE has overlooked the majority of the population.

b. *Monitoring and management, suspected exposures.* ICE directs monitoring occur in a single cell "depending on the space available" and otherwise in a unit with others,<sup>45</sup> which is most often the case. Wyatt has only two medical beds. Its reports to the court indicate it has set aside two housing units, one for males and the other for females although it has no women in its custody at

---

<sup>41</sup> A dedicated facility is an immigration detention center that houses only ICE detainees. A non-dedicated facility hosts more than one confined population. ICE utilizes 221 facilities to detain persons in its custody of which 36 are dedicated and 185 are non-dedicated. IHSC staffs 21 of the 36 dedicated detention facilities. *Facility Inspections*, U.S. IMMIG. & CUSTOMS ENFORCEMENT, <https://www.ice.gov/facility-inspections> (last updated May 4, 2020) [hereinafter *Facility Inspections*].

<sup>42</sup> March 27 ICE Memorandum, *supra* note 13.

<sup>43</sup> CDC, *Interim Guidance*, *supra* note 16.

<sup>44</sup> ICE Detention Management, *supra* note 31.

<sup>45</sup> ERO COVID-19 PRR, *supra* note 15, at 15.

this time. As Dr. Amon pointed out, isolation in this context does not constitute medical isolation. Isolating new admissions, and combining close contacts and not-close contacts, increases the likelihood of exposure and transmission.

c. *Social distancing.* The facilities are densely populated. The square footage per housing unit is small, the use of bunkbeds is prevalent, and the ratio of sinks, showers, toilets, and urinals to beds is low. It is not uncommon for housing units to hold 50 to 100 or more detainees. That is the case at Wyatt where detainees are assigned to two housing units, where lower custody detainees are assigned to a 48-bed dormitory and higher custody detainees are assigned to a 50-cell, double-bunked housing unit, a total of 100 beds. It is reported that 60 or detainees are assigned to celled housing therefore, at least ten detainees are sharing a cell with another detainee. The population is confined to their housing unit the majority of the day. It is where they eat, sleep, watch TV and socialize in large groups, and conduct five standing counts daily within the confines of a relatively small area. It is reported that since mid-April, detainee have less free movement than before; now they are released one of two tiers at a time, twice a day, for about 90 minutes each time thereby intensifying the likelihood of coming into contact with one another. Detainees also have access to small outdoor recreation areas, reportedly as crowded as their dayrooms. It is also important to note that these lengthy lock downs take on a punitive aspect. Medical isolation is not supposed to be punitive.

d. Detainees are shackled to one another during transports and sit or stand shoulder to shoulder on benches in Intake, the medical unit, corridors, and court waiting areas, and on the pill line. Detainees also wait on lines in the housing units to use the phones and a computer with a CD for legal research, the microwave, and the hand sinks which detainees also use to wash their clothes. ERO's PRR acknowledges that "strict social distancing may not be possible in congregate settings such as detention facilities," and requires facilities to implement suggested measures to enhance social distancing "to the extent practicable."<sup>46</sup>

e. *Intra- and inter-facility movement.* The CDC addressed limiting transmission between facilities as well as within by restricting transfers unless absolutely necessary. The DOJ Bureau of Prisons limited its inter-facility transfers on March 13;<sup>47</sup> ICE adopted its own restriction for inter-facility movement on April 10 but with ample latitude for unspecified "extenuating" security considerations.<sup>48</sup> There is still considerable intra-facility movement of detainees and staff at Wyatt and the other detention facilities. Detention officers

---

<sup>46</sup> *Id.* at 13.

<sup>47</sup> *Federal Bureau of Prisons COVID-19 Action Plan: Agency-Wide Modified Operations*, BUREAU PRISONS (Mar. 13, 2020), [https://www.bop.gov/resources/news/20200313\\_covid-19.jsp](https://www.bop.gov/resources/news/20200313_covid-19.jsp).

<sup>48</sup> ERO COVID-19 PRR *supra* note 15 at 13.

rotate assignments and detainees are reassigned from one housing unit to another frequently.

f. *Cleaning and sanitation.* CDC guidelines provide clear details about the types of cleaning agents and applications that should be adopted. ICE conveys CDC recommended cleaning tips to staff; it does appear that staff conveys these tips onto detainees. That is unfortunate. Detainees are responsible for cleaning their housing units and may be “employed” by the facility as porters to clean other areas in the facility. Most often, they perform these duties without any training and supervision, limited and diluted cleaning supplies, faulty spray bottles, and little to no protective gloves, glasses, masks, and gowns or coveralls. The facilities also rely on detainees to perform most of the food preparation and cooking as well as the laundry and sanitation, but there is no universal health screening protocol to ensure that everyone preparing and serving the meals and laundering the clothes and bedding as well as cleaning the facility are not sick or symptomatic.

g. *Personal Hygiene.* Incorporating CDC guidelines, ICE instruction requires all persons in the facility to maintain good hygiene by washing their hands regularly with soap and water and provide no-cost, unlimited access to supplies for hand cleaning including liquid soap, running water, hand drying machines or disposable paper towels, and no-touch receptacles. ICE directed facility staff to reinforce healthy hygiene practices, and to provide and restock hygiene supplies including in bathrooms, dining areas, intake areas, visitor entries and exits, common areas, and medical, throughout the facility. ICE also instructed detainees are provided no-cost access to tissues and no-touch receptacles for disposal.

h. *Focus and Press.* ICE is an enforcement agency that promulgated requirements to address a pandemic disease that threatens its workforce, all the persons in its custody, and the communities to which they return at the end of their shifts or upon their release from custody. Some requirements are conditioned “as practicable,” for example, offering “the seasonal influenza vaccine to all detained persons . . . throughout the influenza season, where possible.”<sup>49</sup> Other recommendations are couched as “make an effort to;” notably, to reduce number of persons systemwide who are detained.<sup>50</sup> There is no clear path to compliance; of great concern for example, the circumstances under which detainees can expect to be tested for COVID-19 remains both unclear and uncertain. To date, ICE has only tested 1,804 detainees of which, 965 (53%) have tested positive.<sup>51</sup> It is highly likely, if ICE tested more detainees, there would be an appreciably greater number of confirmed cases in immigration detention.

---

<sup>49</sup> *Id.* at 6, 8.

<sup>50</sup> *Id.* at 13.

<sup>51</sup> ICE Guidance, *supra* note 7

i. The guidance continues to rely on the quarantine of persons who may have been exposed or evidence symptoms. Also, troubling there is no assurance of quarantine in a single cell; most are quarantined as a group, increasing the likelihood of their exposure. Flattening the curve is an undertaking which ERO, a nationwide network of over 200 detention facilities, has failed to take on in the necessary systematized manner. It is my opinion that the equivocation expressed throughout the PRR and preceding instruction conveys a lack of urgency when nothing is needed more than to focus and press quickly and comprehensively towards full implementation.

### **Donald W. Wyatt Detention Facility Operating Assumptions and Obstacles**

32. The Donald W. Wyatt Detention Facility (Wyatt), capacity 770 beds, is an adult, close custody detention facility, publicly owned and privately operated by CFDFC. Wyatt houses U.S. Marshals Service (USMS) male and female prisoners, DOJ Bureau of Prisons inmates, Navy personnel in the custody of the General Court Martial Convening Authority, and ICE detainees.<sup>52</sup> ICE resumed use of the facility in 2019 by means of a rider on the USMS' intergovernmental service agreement with Wyatt affording ICE use of no more than 225 beds.<sup>53</sup> <sup>54</sup> Fiscal year to date, its average daily population, is 94 male detainees.<sup>55</sup> ICE detainees normally occupy housing unit J-1, a 48-bed housing unit, and J-2, a 100-bed housing unit, with two tiers of 25 2-bed cells each, on an upper and lower levels; however, Wyatt's COVID-19 status reports state that unit J-1 has been converted into "the Facility's primary quarantine pod." Detainees may also be assigned as warranted to the facility's medical unit with two beds, a restricted housing unit for disciplinary or administrative purposes (primarily, protective custody), and a dormitory said to be retrofitted for quarantine.

33. The facility was inspected by the Nakamoto Group, Inc. (NGI), a company with which ICE contracts to conduct annual inspections of most of its detention facilities, in April 2019,<sup>56</sup> a month after ICE resumed use of the facility in March 2019 after a ten-year hiatus. The NGI inspection team described the facility's climate carefully, characterizing its atmosphere overall as "generally calm with no obvious indicator of high stress." The inspection team identified one deficient component, Correspondence and Other Mail, and issued the facility a rating of "Acceptable." One of the two inspection forms required by ICE was not posted on the ICE website therefore no other information about that inspection is available.

34. As a matter of law, immigration detention is unlike criminal incarceration. Yet immigration detainees and pre-trial inmates and sentenced prisoners tend to be seen by the public as comparable which is to say, dangerous, and both confined populations are typically managed

---

<sup>52</sup> Donald W. Wyatt Northwest Detention Facility, <http://www.wyattdetention.com/>.

<sup>53</sup> U.S. Department of Justice, U.S. Marshals Service Modification of Intergovernmental Agreement, Agreement 70-91-0033, Case 1:19-cv-00182-WES-PAS, Document 109, Filed 04/10/19, page 2 of 3, ID#: 253.

<sup>54</sup> ICE housed detainees at the facility between 2005 and 2008 when ICE withdrew following an inquiry into the death of detainee in the facility's custody. See Wikipedia, Donald W. Wyatt Detention Facility, (last edited Mar. 15, 2020) [https://en.wikipedia.org/wiki/Donald\\_W.\\_Wyatt\\_Detention\\_Facility](https://en.wikipedia.org/wiki/Donald_W._Wyatt_Detention_Facility).

<sup>55</sup> *Facility Inspections*, *supra* note 41.

<sup>56</sup> *Id.*

in similar ways, as if they are dangerous.<sup>57</sup> Many of them are assigned to secure facilities with hardened perimeters in remote locations at considerable distances from counsel and their families as well as a hospital with an emergency room or intensive care beds. In fact, with only a few exceptions, the facilities that ICE uses to detain immigrants were intended to operate and do in fact operate as jails and prisons, to confine pre-trial and sentenced prisoners. Their design, construction, staffing plans, and population management strategies are based largely upon the principles of command and control. ICE also adopted detention standards based on corrections law and promulgated by a correctional organization, the American Correctional Association, to guide the operation of adult, local correctional facilities.<sup>58</sup>

35. Today, ICE operates one of the largest systems of detention in the country, but only owns seven<sup>59</sup> of the 221 facilities<sup>60</sup> it uses and operates none of them. As noted above, ICE excels at enforcement but lacks both the infrastructure and expertise to detain the persons in its custody. Instead, ICE procures its services from others. Briefly, these are several ICE's significant operating assumptions that inform, and impact, detainees' conditions of detention.

a. Dedicated v. Non-dedicated detention facilities. ICE identifies the facilities it uses as dedicated, an ICE-only occupied facility, or non-dedicated, a shared-use facility, detainees co-located with one or more other populations. Wyatt is a non-dedicated facility.

b. Performance-based National Detention Standards (PBNDS) v. National Detention Standards (NDS). ICE has two versions of detention standards, performance-based national detention standards (PBNDS), with which dedicated facilities must comply, and national detention standards (NDS) with which most non-dedicated facilities must comply. The PBNDS are more detailed and have more requirements than do the NDS.

c. Contracts and Inter-Governmental Service Agreements. The primary means by which ICE procures beds is a contract with a private provider or an inter-governmental service agreement (IGSA) with a public entity. ICE procured Wyatt beds by means of a rider on the USMS' IGSA with CFDFC.

d. Contract Compliance. ICE monitors facilities for contractual compliance with their assigned PBNDS or NDS by several means. Dedicated facilities are assigned a monitor on an ongoing basis. All dedicated facilities as well as most non-dedicated facilities are inspected annually by the Nakamoto Group, Inc. (NGI), a firm with which ICE contracts. ICE also deploys its Office of Detention Oversight to assess some facilities on a 3-year rotation.

---

<sup>57</sup> *Zadvydas v. Davis*, 533 U.S. 678, 609 (2001).

<sup>58</sup> AM. CORR. ASS'N, PERFORMANCE-BASED STANDARDS FOR ADULT LOCAL DETENTION FACILITIES (4th ed. 2004); AM. CORR. ASS'N, 2016 STANDARDS SUPPLEMENT (2016).

<sup>59</sup> The seven facilities are Service Processing Centers. They are El Paso SPC (El Paso TX), Krome (Miami FL), Port Isabel SPC (Los Fresnos TX), Batavia SPC (Buffalo NY); El Centro SPC (El Centro CA), Florence SPC (Florence AZ) and Aguadilla SPC (Aguadilla PR).

<sup>60</sup> *Facility Inspections*, *supra* note 41.

36. ICE's arrangement with Wyatt is one its most complex, and its operating expectations and oversight are among the most minimal. The impact of ICE's operating assumptions and oversight activities on detainees' conditions of detention at Wyatt are considerable.

a. Wyatt needed to raise revenue and ICE needed beds. The parties executed their transaction by means of a rider on the USMS's IGSA with Central Falls, to house both male and female USMS prisoners, DOJ Bureau of Prison inmates, and Navy personnel awaiting court martial. ICE utilizes both dedicated and non-dedicated facilities, but I have not encountered an arrangement with ICE involving so many parties – the four “tenants,” the facility owner, and the facility operator– each of which has its own interests and obligations.

b. The rider that the USMS and Central Falls signed allowing ICE to access up to 225 beds for detainees made no other provision for the accommodation of ICE detainees. The IGSA stipulated only that Wyatt will submit to USMS Quality Assurance Reviews and comply with American Correctional Association standards premised upon correctional case law for pre-trial and short-term sentenced inmates, not civil detainees. The ICE website states nevertheless, Wyatt will comply with the NDS,<sup>61</sup> its most streamlined set of detention standards, the same one that all non-dedicated facilities in shared-use arrangements with USMS are required to follow. The ICE website offers as explanation for “streamlining” its expectations for a number of the facilities it uses, is that “based on its experience with its state and local law enforcement partners, and the understanding that local practice appropriately covers many requirements that were explicitly enumerated previously, ICE no longer felt the need to do so.”<sup>62</sup> The government reports noted below suggest otherwise; many of the smaller and shared used facilities were unwilling or unable to comply with ICE's minimum standards.<sup>63</sup> In exchange of beds for bond funds, ICE has permitted persons in its custody to be housed under varied and varying conditions of detention.

c. ICE carried forward its streamlining into the pandemic and subsequent delineation of responsibilities for detention facilities in response to COVID-19. ICE directed dedicated detention facility comply with the March 27 Memorandum on COVID-19 Action Plan. Wardens and Superintendents of dedicated facilities were required to implement all its instructions whereas Wardens and Superintendents of non-dedicated facilities were merely requested to comply.<sup>64</sup>

---

<sup>61</sup> *Facility Inspections, supra*, note 41.

<sup>62</sup> 2019 National Detention Standards for Non-Dedicated Facilities (last rev. Dec. 19, 2019), <https://www.ice.gov/detention-standards/2019>.

<sup>63</sup> GAO, *infra* note 66; DHS OIG, *infra* note 67.

<sup>64</sup> March 27 ICE Memorandum, *supra* note 13.

On April 10, ICE issued COVID-19 Pandemic Response Requirements, reiterating the differing expectation for dedicated and non-dedicated facilities.<sup>65</sup>

d. Wyatt's recent efforts to address COVID-19 related issues illustrate what happens to the minority population in a mixed-use facility—in this case the comparatively small ICE population, in relation to the much larger population of USMS detainees. ICE currently occupies approximately 75 of 770 beds; it was detainees' housing assignments that were rearranged: they were reassigned to segregation for non-punitive purposes, and now are co-located with USMS prisoners.

e. As a non-dedicated facility, ICE's level of oversight of Wyatt is among its lowest, just an annual inspection by NGI, to ascertain its compliance with NDS.

f. ICE's methods of acquiring beds as well as its setting and enforcing expectations are of continuing concern to the Government Accountability Office<sup>66</sup> and the DHS Office of Inspector General.<sup>67</sup>

### **Conditions at the Donald W. Wyatt Detention Facility**

37. The Wyatt website description of its population management strategy is, "The facility operates at maximum security utilizing an architectural and high-tech design and construction containment system."<sup>68</sup> NGI described Wyatt in an appreciably different manner, as a direct supervision facility,<sup>69</sup> a correctional term to convey the absence of physical barriers in the housing units and an expectation for continuous social interaction between correction officers and inmates. The physical plant and the interface of detention officers and detainees described in the declarations I reviewed and conversations I have had with attorneys familiar with the facility fall far short of that description. Facility operations and oversight appear to be significant impediments to adequate implementation of pandemic-specific efforts.

---

<sup>65</sup> ERO COVID-19 PRR, *supra* note 15.

<sup>66</sup> GAO, IMMIGRATION DETENTION, Additional Actions Needed to Strengthen Management and Oversight of Facility Costs and Standards, GAO-15-153, Oct. 2014, <https://www.gao.gov/assets/670/666467.pdf>; GAO, IMMIGRATION DETENTION: Additional Actions Needed to Strengthen Management and Oversight of Detainee Medical Care, GAO-16-231, Feb 29, 2016, <https://www.gao.gov/products/GAO-16-231>; GAO, IMMIGRATION DETENTION: Opportunities Exist to Improve Cost Estimates, GAO-18-343: Apr 18, 2018, <https://www.gao.gov/products/GAO-18-343>.

<sup>67</sup> DHS Office of Inspector General ICE Does Not Fully Use Contracting Tools to Hold Detention Facility Contractors Accountable for Failing to Meet Performance Standards, January 29, 2019 OIG-19-18, <https://www.oig.dhs.gov/sites/default/files/assets/2019-02/OIG-19-18-Jan19.pdf>; DHS OIG, ICE's Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements, June 26, 2018 OIG-18-67, <https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf>; DHS OIG, Concerns About ICE Detainee Treatment and Care at Detention Facilities, OIG-18-32, Dec. 11, 2017, <https://www.oversight.gov/report/dhs/concerns-about-ice-detainee-treatment-and-care-detention-facilities>.

<sup>68</sup> Donald W. Wyatt Detention Facility, Central Falls Detention Facility Corporation, History of the Facility, <http://www.wyattdetention.com/About-Us/History>.

<sup>69</sup> Nakamoto Facility Inspection (Apr. 11, 2019), *available at* <https://www.ice.gov/facility-inspections>.

38. It is my understanding that ICE detainees are customarily housed in Pods J-1 and J-2, but that Pod J-1 has now been converted into a COVID-19 “quarantine pod.” It is unclear from Wyatt’s status reports whether Pod J-1 is used to quarantine only ICE detainees or is now housing new admissions of all the different types of detainees and prisoners held throughout the facility. Pod J-1 is a 48-bed housing unit which presently, may be used as a place to quarantine together newly admitted and symptomatic USMS prisoners and detainees. Pod J-2 is a 100-bed, 2-tiered housing unit with 25 2-bed cells on each tier. In correctional systems, cells are reserved for high custody inmates and dormitories are the preferred housing for lower custody inmates. It is my understanding the majority of detainees are lower custody. Some detainees may have a cellmate and others do not. According to reports to the court, Wyatt’s most recent census was a total of 554 males, including 75 male ICE detainees.

	Wyatt (770 beds)	ICE Detainees (225)
20 April	586 (765)	80
21 April	580 (75%)	79
23 April	581 (75%)	81
24 April	579 (75%)	82
27 April	576 (74%)	80
30 April	573 (74%)	77
May 4	564 (73%)	75
May 11	554 (72%)	75
Av. Daily Pop	574 (75%)	79 (10%)

39. It is my experience, the lower the ratio of ICE detainees to other prisoners, the greater the disparity in their conditions of detention and that of others. The smaller the number of detainees there are, the more likely their housing conditions are more restrictive than their custody classification requires, their access to paid voluntary work assignments more limited, the availability of interpretative services less likely, and the administration’s response to their concerns non-responsive. These disparities are more pronounced when the facility is locked down.

Social Distancing

40. Based on my years of experience overseeing and managing secure facilities, conditions in correctional institutions and immigration detention facilities place people in close contact with one another that allow disease to spread freely, especially among people with known risk factors. Lowering the detention facilities census to 75 percent as ICE proposed is a positive step but in and of itself, is insufficient to afford the necessary protection to which all detainees are entitled as a matter of law. According to detainee declarations which I found to be credible, conditions at Wyatt are concerning.

41. Capacity is the term used to indicate how many beds there are, not how many there should be. Reducing a facility from 1,000 beds to 750 beds or less, for example, does not mean that it is no longer too densely populated, especially when capacity is premised upon bunkbeds which require half the floor space as do single beds as is the case at Wyatt. As is also the case with Wyatt, when the census dropped but detainees are not dispersed, presumably to respond quickly to increased need for quarantine, the detainees in the facility today are not dispersed so as to increase social distancing, instead they are confined to their cells a greater portion of the day. With most housing units furnished with too many beds, usually bunkbeds, and too few tables frequently with fixed seats, and all of which are bolted to the floor, several phones, and a single hot pot and perhaps a microwave, crowding is baked into the floor plan and facility operations.

42. Detainee declarations also make clear that even the most conscientious individuals are unable to socially distance while in their housing units at Wyatt. Although detainees spend a greater portion of their time in lockdown, they still encounter crowded conditions when they are let out of their cells twice daily. Detainees in both Pods J1 and Pod J2 wait on lines for the phone, to shower, and for meal trays. They sit close together at tables in which chairs are bolted down so they cannot distance themselves. They sit or stand near each other when released for outdoor recreation and in the dayroom to watch television. They stand at their bed five times daily for count. No matter how much Wyatt lowers its census, or how much of the day detainees must spend in their cells, facility operations force them to be crowded closely together whenever they are in any congregate setting such as during recreation or meals.

43. These circumstances do not permit detained people to maintain social distancing of at least six feet in their housing units or other areas in the facility and the grounds as recommended by public health experts. Staggering meals and recreation as suggested by ICE and CDC,<sup>70</sup> may be useful in limiting the number of people in the recreation yard but doing so would require more escort officers to cover the extended hours of movement and therefore is not generally feasible. Lengthening the schedule may also impact turnout with fewer detainees rising for recreation before sunrise or participating after dark. Staggering meal service would not impact density at all because the dining area and the dayroom are one and the same.

44. Also of concern, detainee and staff movement within the facility among the housing units continually exposes detainees to new potential sources of COVID-19. Wyatt staff members work in both the “quarantine” pod in which individuals with active cases are housed, and the general population pod, potentially bringing COVID-19 from one side to the other. This

---

<sup>70</sup> *Id.* at 13; CDC, *Interim Guidance*, *supra* note 16.

situation is exacerbated by the fact that detention officers do not wear PPE. Detainees also see numerous detention officers each shift, and the officer assignments change from day to day. Detention officers also routinely fail to regulate movement within housing units, even during supposed lockdown, resulting in the crowding conditions described above. Combined with lack of sanitation, personal protective equipment, and hygiene, addressed more thoroughly below, all this movement within housing units and throughout the facility increases the likelihood of widespread transmission and prevents detainees from protecting themselves by engaging in social distancing practices.

45. History shows that an immigration facility's census rises and falls, and its capacity is fluid, expanding and contracting overnight to meet ICE's bed demand. The optimal way to protect medically vulnerable persons who are detained today, and to reduce the likelihood of infecting others in the weeks and months to come, is that ICE should reduce the census as much as it can, as quickly as possible, and then sustain it. The most effective way in which to accomplish this is by enlarging, not shrinking, the pool of people to be released, to include as many persons as possible who are medically vulnerable due to age and/or medical conditions, as well as other individuals who would be successful on community supervision.

#### Sanitation

46. Sanitation, also key to the facility's compliance with CDC recommendations and PRR requirements, is sorely lacking.

47. ICE, as custodian of the detainees, has ultimate responsibility for the care of all the persons in its custody. CFDFC, as ICE's agent, committed to carry out ICE's requirements in exchange for considerable compensation. Instead, it appears Wyatt has left and ICE has allowed, implementation largely to the detainee population with little or no instruction, cleaning and sanitation supplies, and personal protective equipment, to clean the housing units, and to so without supervision.

48. Detainees are delegated the primary responsibility for cleaning their immediate living area and the shared space in the housing units.<sup>71</sup> Detainees usually perform these duties without training, receive only limited supervision, and are provided diluted cleaning materials and insufficient supplies, and few of personal protective equipment – protective gloves, glasses, and gowns or coveralls – recommended by the CDC.<sup>72</sup> Plaintiff declarations express concern that objects with which many detainees come in contact frequently—such as the phones, tables and chairs, the water button on the medicine cart, and other high-touch surfaces in the housing units—are not sanitized or replaced routinely.

---

<sup>71</sup> U.S. Dept of Justice, U.S. Marshals Service, Modification of Intergovernmental Agreement, Detention Services Operational Agreement, Central Falls Detention Facility Corporation, Agreement No. 70-91-0033, Detainee Work Program, p. 21. The operational agreement provides USMS prisoners/detainees shall be required to participate in normal housekeeping duties. Concerning voluntary, compensated work assignments, it provides appropriate safety/protective clothing and equipment shall be provided.

<sup>72</sup> CDC, *Interim Guidance*, *supra* note 16.

49. ICE facilities routinely rely on detainees to assist with meal service and facility housekeeping, but neither ICE nor the IHSC has a universal health screening protocol to ensure that the persons preparing and serving meals and cleaning various areas of the facility are not sick or symptomatic. Wyatt utilizes detainees to distribute meal trays that are delivered to the housing units as well as housekeeping assignments. Disposable plastic gloves are sometimes available but not hairnets or masks. It does not appear that practices employed in the kitchen and mess hall carry over to meal service in the dayrooms. Food carts and pill carts are wiped down between housing units and the equipment issued in recreation areas, legal research material, and the various staging and holding areas in Intake and Medical Unit, and attorney visit areas, also receive limited attention.

#### Personal Hygiene

50. As with sanitation, ICE retains ultimate responsibility to ensure that detainees are protected while in their custody and care. However, consistent with my experience overall and Plaintiff declarations in this matter, staff does not appear to take their own health or that of the detainees seriously in the face of COVID-19. Plaintiffs document widespread refusal of Wyatt staff to wear masks or other personal protective equipment. Staff similarly refuse to enforce requirements that detainees wear masks or other personal protective equipment, exposing all detainees to risk of infection.

51. Facility staff has not enforced other measures in the PRR to ensure that detainees may protect themselves with proper personal hygiene. Soap runs out and is not replaced, leaving detainees who are indigent forced to use only water to wash their hands. There is no hand sanitizer available to detainees, contrary to the status report filed with the Court. Additionally, detainees are not provided any instructions about handwashing or how to use cloth masks, and only a single mask is provided per detainee.

#### Other COVID-19-related Concerns

52. It is also my experience that many detainees are fearful for their health and well-being in the custody of ICE. Under ordinary circumstances, they have difficulty accessing healthcare. Plaintiffs in this case both note denial of necessary medical care and failure to communicate results from staff. In my experience, detainees often wait days for appointments for emergent and urgent matters. This past Wednesday, May 13, a chronic-care detainee requested medical attention. His symptoms included a glucose reading approaching 500, blurred vision, dizziness, and swollen legs. He was not seen until the next day, because his attorney made the request. The formulary is limited, and all off-site specialty services must be pre-approved by IHSC. Procedures considered customary according to community standards are frequently denied. Routine healthcare is also denied notably, prescription glasses, dental cleanings, and treating cavities.<sup>73</sup>

---

<sup>73</sup> Of note, the status reports filed with the Court in this case indicate that Wyatt is no longer providing *any* dental services, regardless of whether those services are routine or emergent.

53. Under extraordinary circumstances such as those that COVID-19 present, the population is especially alarmed about the spread of the coronavirus to and through the facilities to which they are confined. Hotlines are fielding calls from detainees across the country who have underlying health conditions including diabetes, cancer, kidney issues, asthma, heart disease or are otherwise medically vulnerable especially the elderly, mentally ill and transgender persons. One recent caller, who has asthma and reported a fever and serious cough, told the ABA hotline that the facility tested him for tuberculosis but not for COVID-19 and released him back to his pod. Many have expressed concern about their inability to stay physically distant from one another, the lack of precautions being taken by their facilities, the frequency with which detainees are being transferred in from other facilities and reassigned from one housing unit to another, the lack of personal protection equipment (PPE) for them and facility staff, and that as the census drops the facility is closing housing units not, spreading out the remaining detainees to every other bed or more. The hotline has also received reports that detainees are being told to clean their housing units, but they are not being given cleaning solutions or are permitted to clean more frequently than once a day and that they have not been issued hand soap or hand sanitizer.

54. These concerns are heightened at Wyatt, where staff fails to communicate with detainees about measures being taken to combat COVID-19, leaving them fearful for their health and safety and unsure whether or how COVID-19 is being addressed.

55. Plaintiff declarations indicate that Wyatt staff, including the warden, provide false information about COVID-19 and are unresponsive to detainee concerns and questions. Detainees are provided insufficient information about PPE, cleaning, social distancing, and hygiene to keep themselves and others at the facility staff.

56. Further, any facility efforts at isolating and quarantining suspected cases are undermined by the facility's inappropriate segregation practices and failure to provide necessary information to detainees about those practices. Plaintiff declarations indicate that detainees are afraid to report symptoms because they believe that they will be placed in segregation if they do so. This belief is bolstered by the fact that Defendants inappropriately used segregation and the threat of segregation to punish detainees who engaged in a hunger strike. ICE standards require close monitoring and evaluation of individuals engaged in hunger strikes and do not permit punishment, including punitive isolation.<sup>74</sup> However, Plaintiff declarations indicate that Defendants threatened or used segregation as punishment—not as part of medical observation and health care—for engaging in hunger strikes. It is reasonable for them, in the absence of clear explanation from Defendants, to fear the use of segregation and on that basis hide or deny symptoms. Doing so is likely to increase the spread of COVID-19, given the lack of social distancing and hygiene in the facility. Additionally, it is inappropriate to use punitive segregation for medical isolation purposes, as segregation is to be used only when necessary and as a last resort.<sup>75</sup>

---

<sup>74</sup> 2019 NDS Standard 4.2: Hunger Strikes, [https://www.ice.gov/doclib/detention-standards/2019/4\\_2.pdf](https://www.ice.gov/doclib/detention-standards/2019/4_2.pdf)

<sup>75</sup> U.S. ICE Review of the Use of Segregation for ICE Detainees (Sept. 4, 2013), [https://www.dhs.gov/sites/default/files/publications/segregation\\_directive.pdf](https://www.dhs.gov/sites/default/files/publications/segregation_directive.pdf).

57. Staff also refuse to inform detainees about what happens to individuals who are symptomatic or who test positive for COVID-19. Staff has left at the end of their shift and not yet returned. Detained people are removed from the housing unit, never to be seen again, and staff will not answer questions about what has happened to them. Against this backdrop, it is unsurprising that Plaintiff declarations document instances in which apparently symptomatic individuals refuse to report illness out of fear of what could happen to them. These fears appear to be well-founded, and the lack of information is likely to increase the spread of COVID-19 within the facility.

58. There are other factors that can impact a facility's ability to treat a detainee with a confirmed case of COVID-19 or its symptoms. Of note, is the frequency with which overtaxed hospitals in New York City for example, have turned away even patients with COVID-19 symptoms in the past several months.<sup>76</sup> I have also heard reports that in several hot spots as well as rural areas where hospitals objected to accepting patients already in the custody of a correctional system.

59. It is my opinion that the detainees' concerns are real, and their reports are credible. Any one of these circumstances, make it more likely that respiratory diseases such as COVID-19 will spread quickly once they are introduced into any of ICE's detention facilities. I also witnessed how the stress associated with exposure to coronavirus aggravated detainees' chronic conditions such as heart disease, diabetes, and high blood pressure, and required medical attention and adjustments to medication. I am concerned that ERO's Pandemic Response Requirements to protect the population and the public, will not suffice. Too many critical CDC requirements such as social distancing are merely requests to be adopted "where practicable."<sup>77</sup>

### **Alternatives to Detention**

60. ICE's characterization that the majority of detainees are criminal aliens is misleading. Over time, ICE has expanded the term criminal alien to include persons charged but not pled or proven guilty and persons who may have been charged but were not.<sup>78</sup> The top three criminal charge categories for all administrative arrests in FY2019 were traffic offenses (DUI), traffic offenses (other), and dangerous drugs.<sup>79, 80</sup> The overwhelming majority of the population has not been charged *or* convicted of a violent crime and is eligible for consideration of a housing assignment in a lower custody, dormitory-style housing unit. As ICE detention numbers increased throughout the past four years, the growth was driven substantially by detention of individuals

---

<sup>76</sup> Andrea Salcedo, *He Went to 3 Hospitals. When He Finally Got a Bed, It Was Too Late*, THE N.Y. TIMES (Apr. 19, 2020), <https://www.nytimes.com/2020/04/19/nyregion/new-york-new-jersey-coronavirus-hospitals.html>.

<sup>77</sup> ERO COVID-19 PRR, *supra* note 15, at 13-14.

<sup>78</sup> U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT FISCAL YEAR 2019 ENFORCEMENT AND REMOVAL OPERATIONS REPORT (2020), *available at* <https://www.ice.gov/sites/default/files/documents/Document/2019/eroReportFY2019.pdf>.

<sup>79</sup> *Id.*, Table 2, paras. 14-15.

<sup>80</sup> Each charge category combines both charges and convictions.

with no criminal history, who by 2019 accounted for nearly 2/3 of those in immigration detention.<sup>81</sup>

61. The restraint that detainees exercise in detention and on community supervision is also exceptional. While working at ICE and having reviewed hundreds of detainee institutional files since then, few detainees are written-up for any infraction especially, a serious infraction. And, those who are released to the community on an alternative to detention, report as required. It is my experience that the majority of detainees are motivated by the desire for repatriation or relief and can be counted on to honor their commitment to comply with the conditions of their release under the most difficult of circumstances.

62. It is now clear that ICE is unwilling or unable to identify infected individuals and refuses to release asylum seekers and other detainees despite the spread of coronavirus through its detention facilities.<sup>82</sup>

63. In stark contrast, best correctional and correctional health care practice requires, at a minimum, the preemptive release of individuals who are at-risk of serious illness or death if they become infected with COVID-19. As Dr. Scott Allen and Dr. Josiah Rich, medical experts to the Department of Homeland Security, recommended in their recent letter to Congress on the pandemic, “[m]inimally, DHS should consider releasing all detainees in high risk medical groups such as older people and those with chronic diseases.” Dr. Allen and Dr. Rich concluded that “acting immediately will save lives not of only those detained, but also detention staff and their families, and the community-at-large.”<sup>83</sup>

64. Initially, ICE proposed only one population, medically vulnerable persons primarily due to age or other infirmity and not subject to mandatory detention, for consideration for release. Then, ICE stated it will no longer consider any detainees for release for any reason lest it incentivize others to attempt to cross the border into the United States.<sup>84</sup> Subsequently, the U.S. District Court of the Central District of California ordered all people who are detained in ICE custody and have one or more specified risk factors as well as all persons who are detained in ICE custody whose disabilities place them at heightened risk of severe illness or death upon contracting the COVID-19 virus, receive due consideration.<sup>85</sup>

65. Based on my experience operating state and local correctional systems that included probation and parole departments and working in various capacities within DHS

---

<sup>81</sup> *Growth in ICE Detention Fueled by Immigrants with No Criminal Conviction*, TRAC IMMIGRATION (Nov. 26, 2019), <https://trac.syr.edu/immigration/reports/583/>

<sup>82</sup> *DHS Officials Refuse to Release Asylum Seekers*, *supra* note 39..

<sup>83</sup> See Letter from Scott A. Allen, MD, FACP, Professor Emeritus, Univ. of Cal. Riverside Sch. of Med., & Josiah Rich, MD, MPH, Professor, Brown Univ, to House and Senate Comms. on Homeland Sec. (Mar. 19, 2020), <https://whistleblower.org/wp-content/uploads/2020/03/Drs.-Allen-and-Rich-3.20.2020-Letter-to-Congress.pdf> [hereinafter Allen & Rich].

<sup>84</sup> *DHS Officials Refuse to Release Asylum Seekers*, *supra* note 39.

<sup>85</sup> *Fraihat v. U.S. Immigration & Customs Enf't*, No. EDCV191546JGBSHKX, 2020 WL 1932570 (C.D. Cal. Apr. 20, 2020).

including to make an assessment of ICE's alternative to detention program, it is my opinion that alternatives to detention can be used effectively and safely to ensure that immigrant detainees are not subjected to unnecessary risk from COVID-19 while ensuring public safety and appearance for court hearings and other appointments.

66. The research literature and government oversight agencies concur. Alternatives to detention, including supervised release, informed by individualized risk assessment, are a highly effective method of managing immigration cases without either unnecessary pretrial detention or risk to public safety or risk of failure to appear for court hearings. Compliance rates with supervised release are extremely high; for example, a recent Government Accountability Office (GAO) report found that 99 percent of immigrant participants in ICE's alternative-to-detention program appeared at scheduled court hearings. ICE also operated a successful Family Case Management Program until recently. According to the report by the DHS Office of the Inspector General, overall compliance was 99 percent for ICE check-ins and appointments, and 100 percent for attendance in court hearings. Just two percent of participants absconded during the process.

67. ICE would be well-served by making full use of its alternatives to detention program. Alternatives to detention include release on personal recognizance, and release on conditions such as phone call check-ins or, when absolutely necessary, electronic surveillance. These alternatives also include the Intensive Supervision Appearance Program (ISAP), in which staff maintains contact with participants with reminder calls and letters and coaching towards meeting all the upcoming reporting requirements and follows up within 48 hours after each court appearance. Under ISAP, when a participant, or the government, files an appeal in the person's removal case and while that appeal is pending, monitoring is modified as necessary to include the addition or removal of GPS or Voice-ID technology, and to increase or decrease in-office and home visit frequency. And if reinstated, alternatives to detention could include a program modeled on ICE's Family Case Management Program, offering orientation and education for participants about their legal rights and responsibilities; individualized service plans; assistance with transportation logistics; tracking and monitoring of immigration obligations (to include ICE check-ins, attendance at immigration court hearings); and safe repatriation and reintegration planning for participants who are returning to their home countries.

68. GPS monitoring when recommended, requires minimal physical contact, and does not pose risk to the officer or the detainee taking routine precautions. The contact necessary to place an ankle monitor on an individual is minimal, and necessary precautions to avoid spread of COVID-19 are easily implemented and commonly done. Moreover, after initial installation there is little need for future physical contact. On-going communication by telephonic reporting or smartlink, ICE's smartphone application, is routine. In my opinion, supervision by any of these remote means are highly effective. They also afford appreciably more social distancing for persons in ICE's custody and ICE personnel than do any interactions between a detainee and detention officer in the confines of detention setting. As of May 9, 2020, nationwide there were 89,211 persons enrolled in an ICE alternative to detention including 35,246 persons monitored

by GPS, 20,296 by SMARTLink, and 33,669 by telephonic reporting. Of this number, 1,726 people were enrolled in the Boston Field Office including 1,460 on GPS, 118 on SMARTLink, and 148 on telephonic reporting.<sup>86</sup>

69. Alternatives to detention are effective because they are tailored to an individual depending on their levels of need and risk in the community. Such tailored alternatives maximize medically vulnerable and low-risk people’s ability to remain healthy in the community while protecting public safety and the integrity of court proceedings and other legal requirements. There are also a number of highly effective alternatives to detention for higher need and higher risk individuals including the mentally ill and seriously mentally ill, that could be readily adapted.

70. When there is a threat to our health and well-being, especially one as serious as COVID-19, we count on the government to protect us from undue harm. The government assumes the same responsibility for those in its custody who lack the autonomy to care for themselves. Today, “flattening the curve” so that the infection rate for COVID-19 stays below the healthcare system capacity is key both to controlling the pandemic in the United States and to preventing undue harm to those of us in custody. As individuals, our responsibility to ourselves and others is to limit our social interactions and maintain rigorous personal hygiene practices. For government and institutions, “flattening the curve” requires focusing on densely populated places in which its inhabitants cannot isolate themselves. That is why governors have closed all but the essential governmental agencies and businesses, and states have reconsidered their usage of jail and prison, widely recognized by the healthcare community to be “amplifiers of infectious diseases” such as COVID-19. They do so because they recognize the conditions that can keep diseases from spreading—such as social distancing and rigorous sanitation—are nearly impossible to achieve in correctional and immigration detention facilities.

71. Numerous state and local systems have acted to reduce detention in light of COVID-19, both by decreasing pretrial detention and by releasing detained and sentenced individuals. These measures demonstrate that people can be protected from COVID-19 consistent with public safety needs.

72. At the local level, leaders have been swift to act:

- District attorneys in San Francisco, California<sup>87</sup> and Boulder, Colorado<sup>88</sup> have taken steps to release people held pretrial, with limited time left on their sentence, and charged with non-violent offenses.

---

<sup>86</sup> ICE Detention Management, *supra* note 31, paras. 3–4.

<sup>87</sup> Darwin Bond Graham, *San Francisco Officials Push to Reduce Jail Population to Prevent Coronavirus Outbreak*, APPEAL (Mar. 11, 2020), <https://theappeal.org/coronavirus-san-francisco-reduce-jail-population/>.

<sup>88</sup> Elise Schmelzer, *Denver, Boulder Law Enforcement Arresting Fewer People to Avoid Introducing Coronavirus to Jails*, DENVER POST (Mar. 16, 2020), <https://www.denverpost.com/2020/03/16/colorado-coronavirus-jails-arrests/>.

- Ohio courts in Cuyahoga County<sup>89</sup> and Hamilton County<sup>90</sup> have begun to issue court orders and conduct special hearings to increase the number of people released from local jails. On a single day, judges released 38 people from the Cuyahoga County Jail, and they hope to release at least 200 more people charged with low-level, non-violent crimes.
- The Los Angeles County Sheriff's Department<sup>91</sup> has reduced their jail population by 10% in the past month to mitigate the risk of virus transmission in crowded jails. To reduce the jail population by 1,700 people, the Sheriff reports releasing people with less than 30 days left on their sentences and is considering releasing pregnant people and older adults at high risk.
- In Travis County, Texas,<sup>92</sup> judges have begun to release more people from local jails on personal bonds (about 50% more often than usual), focusing on preventing people with health issues who are charged with non-violent offenses from going into the jail system.
- Court orders in Spokane, Washington<sup>93</sup> and in three counties in Alabama<sup>94</sup> have authorized the release of people being held pretrial and some people serving sentences for "low-level" misdemeanor offenses.
- In Hillsborough County, Florida,<sup>95</sup> over 160 people were released following authorization via administrative order for people accused of ordinance violations, misdemeanors, traffic offenses, and third-degree felonies.
- In Arizona, the Coconino County<sup>96</sup> court system and jail have released around 50 people who were held in the county jail on non-violent charges.

---

<sup>89</sup> Kevin Freeman, *Cuyahoga County Jail Releasing Some Inmates Early to Help Minimize Potential Coronavirus Outbreak*, FOX 8 (Mar. 14, 2020), <https://fox8.com/news/coronavirus/cuyahoga-county-jail-releasing-some-inmates-early-to-help-minimize-potential-coronavirus-outbreak/>.

<sup>90</sup> Kevin Grasha, *Order to Authorize Hamilton County Sheriff to Release Low-Risk, Nonviolent Jail Inmates*, CINCINNATI ENQUIRER (Mar. 16, 2020), <https://www.cincinnati.com/story/news/crime/crime-and-courts/2020/03/16/coronavirus-hamilton-county-sheriff-release-low-risk-inmates/5062700002/>.

<sup>91</sup> Justin Carissimo, *1,700 Inmates Released from Los Angeles County in Response to Coronavirus Outbreak*, CBS NEWS (Mar. 24, 2020), <https://www.cbsnews.com/news/inmates-released-los-angeles-county-coronavirus-response-2020-03-24/>.

<sup>92</sup> Ryan Autullo, *Travis County Judges Releasing Inmates to Limit Coronavirus Spread*, STATESMAN (Mar. 16, 2020), <https://www.statesman.com/news/20200316/travis-county-judges-releasing-inmates-to-limit-coronavirus-spread?fbclid=IwAR3VKawwn3bwSLSO9jXBxXNRuaWd1DRLsCBFc-ZkPN1INWW8xnzLPvZYNO4>.

<sup>93</sup> Chad Sokol, *Dozens Released from Spokane County Custody Following Municipal Court Emergency Order*, SPOKESMAN (Mar. 17, 2020), <http://www.courts.wa.gov/content/publicupload/eclips/2020%2003%2018%20Dozens%20released%20from%20Spokane%20County%20custody%20following%20Municipal%20Court%20emergency%20order.pdf>.

<sup>94</sup> Marty Roney, *Coronavirus: County Jail Inmates Ordered Released in Autauga, Elmore, Chilton Counties*, MONTGOMERY ADVERTISER (Mar. 18, 2020), <https://www.montgomeryadvertiser.com/story/news/crime/2020/03/18/county-jail-inmates-ordered-released-autauga-elmore-chilton-counties/2871087001/>.

<sup>95</sup> WFTS Digital Staff, *164 "Low Level, Nonviolent" Offenders Being Released from Hillsborough County Jails*, ABC NEWS (Mar. 19, 2020), <https://www.abcactionnews.com/news/region-hillsborough/164-low-level-nonviolent-offenders-being-released-from-hillsborough-county-jails>.

<sup>96</sup> Scott Buffon, *Coconino County Jail Releases Nonviolent Inmates in Light of Coronavirus Concerns*, ARIZONA DAILY SUN (Mar. 20, 2020), [https://azdailysun.com/news/local/coconino-county-jail-releases-nonviolent-inmates-in-light-of-coronavirus/article\\_a6046904-18ff-532a-9dba-54a58862c50b.html](https://azdailysun.com/news/local/coconino-county-jail-releases-nonviolent-inmates-in-light-of-coronavirus/article_a6046904-18ff-532a-9dba-54a58862c50b.html).

- In Salt Lake County, Utah,<sup>97</sup> the District Attorney reported that the county jail plans to release at least 90 people this week and to conduct another set of releases of up to 100 more people the following week.
- The New Jersey Chief Justice signed an order calling for the temporary release of 1,000 people from jails (almost a tenth of the entire state’s county jail population) across the state of New Jersey<sup>98</sup> who are serving county jail sentences for probation violations, municipal court convictions, “low-level indictable crimes,” and “disorderly persons offenses.
- The New York City Department of Correction has released approximately 1,600 people from its jails.<sup>99</sup>
- In response to a West Virginia court order asking judges to work with prosecutors to identify people who could be released pretrial, over 600 jail detainees have been released on reduced bond or personal recognizance.<sup>100</sup>
- Jails in the Detroit area have released hundreds of individuals who were near the end of their sentences or were determined not to be a threat to public safety.<sup>101</sup>
- The Santa Barbara, California sheriff’s office has released about half of those arrested since an April 6 emergency order by the California Judicial Council requiring zero bail for many arrestees, leading to a significant decline in the jail population.<sup>102</sup>

73. At the state level, state correctional systems are also taking steps to reduce the prison population in the face of the pandemic:

- The North Dakota parole board<sup>103</sup> granted early release dates to 56 people held in state prison with expected release dates later in March and early April.

---

<sup>97</sup> Jessica Miller, *Hundreds of Utah Inmates Will Soon Be Released in Response to Coronavirus*, SALT LAKE CITY TRIBUNE (Mar. 20, 2020), [https://www.sltrib.com/news/2020/03/21/hundreds-utah-inmates/?fbclid=IwAR3r8BcHeEkoAOcyP3pmBu9XWkEj4MMsDC\\_LUH4YZn2QGd18hALk4vM9X1c](https://www.sltrib.com/news/2020/03/21/hundreds-utah-inmates/?fbclid=IwAR3r8BcHeEkoAOcyP3pmBu9XWkEj4MMsDC_LUH4YZn2QGd18hALk4vM9X1c).

<sup>98</sup> Kathleen Hopkins, *Coronavirus in NJ: Up to 1,000 Inmates to Be Released from Jails*, ASBURY PARK PRESS (Mar. 23, 2020), <https://www.app.com/story/news/2020/03/23/nj-coronavirus-up-1-000-inmates-released-jails/2897439001/>.

<sup>99</sup> CITY OF N.Y., *NEW YORK CITY JAIL POPULATION REDUCTION IN THE TIME OF COVID-19 2* (2020), available at <http://criminaljustice.cityofnewyork.us/wp-content/uploads/2020/04/MOCJ-COVID-19-Jail-Reduction.pdf>.

<sup>100</sup> Leslie Rubin, *W.Va. Taking Steps to Reduce Inmate Population Amid COVID-19 Pandemic*, ABC NEWS 8 (Apr. 1, 2020), <https://wchstv.com/news/coronavirus/wva-taking-steps-to-reduce-inmate-population-amid-covid-19-pandemic>.

<sup>101</sup> Amber Ainsworth, *Hundreds of Inmates Released from Metro Detroit County Jails Amid Coronavirus (COVID-19) Outbreak*, CLICK ON DETROIT (Apr. 1, 2020), <https://www.clickondetroit.com/news/local/2020/04/02/hundreds-of-inmates-released-from-metro-detroit-county-jails-amid-coronavirus-covid-19-outbreak/>.

<sup>102</sup> Dave Minsky, *Sheriff has Booked, Released Nearly Half of Those Arrested Since Coronavirus Emergency Order*, SANTA MARIA TIMES (Apr. 20, 2020), [https://santamariatimes.com/news/local/crime-and-courts/sheriff-has-booked-released-nearly-half-of-those-arrested-since-coronavirus-emergency-order/article\\_5ddb4f5-f2b9-5abe-ba0c-45f6ed7c1760.html](https://santamariatimes.com/news/local/crime-and-courts/sheriff-has-booked-released-nearly-half-of-those-arrested-since-coronavirus-emergency-order/article_5ddb4f5-f2b9-5abe-ba0c-45f6ed7c1760.html).

<sup>103</sup> Arielle Zions, *DOC, Gov. Noem Not Planning Special Coronavirus Releases from Prisons*, RAPID CITY J. (Mar. 21, 2020), [https://rapidcityjournal.com/news/local/crime-and-courts/doc-noem-not-planning-special-coronavirus-releases-from-prisons/article\\_d999f510-7c7c-5d19-ab3a-77176002ef99.html](https://rapidcityjournal.com/news/local/crime-and-courts/doc-noem-not-planning-special-coronavirus-releases-from-prisons/article_d999f510-7c7c-5d19-ab3a-77176002ef99.html).

- The director of the Iowa Department of Corrections<sup>104</sup> reported the planned, expedited release of about 700 incarcerated people who have been determined eligible for release by the Iowa Board of Parole.
- In Illinois,<sup>105</sup> the governor signed an executive order that eases the restrictions on early prison releases for “good behavior” by waiving the required 14-day notification to the State Attorney’s office. The executive order explicitly states that this is an effort to reduce the prison population, which is particularly vulnerable to the COVID-19 outbreak.
- Illinois’ governor signed a second executive order suspended all admissions to the Illinois Department of Corrections (“IDOC”) from Illinois county jails, with exceptions solely authorized by the IDOC Director.<sup>106</sup>
- Kentucky’s governor commuted 186 sentences and released 743 inmates within 6 months of completing their sentences.<sup>107</sup>
- New Jersey’s governor signed an executive order to temporarily release nonviolent offenders.<sup>108</sup>
- The Pennsylvania governor has ordered the Department of Corrections to establish a Temporary Program to Reprieve Sentences of Incarceration with the goal of releasing medically vulnerable and low-risk individuals from state prisons,<sup>109</sup> a process that could release up to 1,800 people.<sup>110</sup>
- The California Department of Corrections & Rehabilitation released to parole 3,500 nonviolent offenders with 60 days or less left on their sentences.<sup>111</sup>
- Michigan is paroling approximately 1,000 more prisoners per month, focusing on those who are medically vulnerable.<sup>112</sup>

---

<sup>104</sup> Linh Ta, *Iowa’s Prisons Will Accelerate Release of Approved Inmates to Mitigate COVID-19*, TIMES-REPUBLICAN (Mar. 23, 2020), <https://www.timesrepublican.com/news/todays-news/2020/03/iowas-prisons-will-accelerate-release-of-approved-inmates-to-mitigate-covid-19/>.

<sup>105</sup> Rylee Tan, *Illinois Reaches 1,285 COVID-19 Cases, Gov. Pritzker Eases Restrictions on Prison Release*, LOYOLA-PHOENIX (Mar. 23, 2020), <http://loyolaphoenix.com/2020/03/illinois-reaches-1285-covid-19-cases-gov-pritzker-eases-restrictions-on-prison-release/>.

<sup>106</sup> Ill. Exec. Order No. 2020-13 (Mar. 26, 2020), available at <https://www2.illinois.gov/Pages/Executive-Orders/ExecutiveOrder2020-13.aspx>.

<sup>107</sup> *Kentucky Plans to Release More Than 900 Prisoners Because of the COVID-19 Outbreak*, WDRB.COM (Apr. 2, 2020), [https://www.wdrb.com/news/kentucky-plans-to-release-more-than-900-prisoners-because-of-the-covid-19-outbreak/article\\_aef84282-7541-11ea-8a18-efe5a8cf107d.html?eType=EmailBlastContent&eId=14e33471-26cd-4585-b9b6-e1e52182b91c](https://www.wdrb.com/news/kentucky-plans-to-release-more-than-900-prisoners-because-of-the-covid-19-outbreak/article_aef84282-7541-11ea-8a18-efe5a8cf107d.html?eType=EmailBlastContent&eId=14e33471-26cd-4585-b9b6-e1e52182b91c).

<sup>108</sup> N.J. Exec. Order No. 124 (Apr. 10, 2020), available at <http://d31hzhk6di2h5.cloudfront.net/20200410/c0/64/ce/2c/0ef068b5d2c6459546c33a46/EO-124.pdf>.

<sup>109</sup> Governor Tom Wolf Newsroom, Gov. Wolf: Department of Corrections to Establish Temporary Program to Reprieve Sentences of Incarceration, April 10, 2020 Press release, <https://www.governor.pa.gov/newsroom/gov-wolf-department-of-corrections-to-establish-temporary-program-to-reprieve-sentences-of-incarceration/>.

<sup>110</sup> Jeremy Roebuck, Erin McCarthy & Anna Orso, *Thousand of state prison inmates in Pa and N.J. are now eligible for temporary release as governors act to avert coronavirus spread*, THE PHILADELPHIA INQUIRER (Apr. 10, 2020), available at <https://www.inquirer.com/health/coronavirus/coronavirus-prisoners-pennsylvania-new-jersey-governor-wolf-murphy-20200410.html>.

<sup>111</sup> Paige St. John, *California To Release 3,500 Inmates Early As Coronavirus Spreads Inside Prisons*, L.A. TIMES (Mar. 31, 2020), <https://www.latimes.com/california/story/2020-03-31/coronavirus-california-release-3500-inmates-prisons>.

<sup>112</sup> Heather Walker, *Coronavirus Prompts Prisons to Parole Inmates More Quickly*, WOOD TV (Apr. 14, 2020), <https://www.woodtv.com/health/coronavirus/coronavirus-prompts-prisons-to-parole-some-early/>.

- The Oklahoma governor has commuted the sentences of more than 400 people, who are in the process of being released.<sup>113</sup>
- Governors in Washington,<sup>114</sup> Virginia,<sup>115</sup> Maryland,<sup>116</sup> and Ohio<sup>117</sup> have authorized early release of prisoners.
- Since March 2, the Wisconsin Department of Corrections has released nearly 1,600 people in response to the COVID-19 crisis.<sup>118</sup>

74. In addition to releasing people from jail and prison, jurisdictions are reducing jail admissions, contributing to the reduction in average daily populations, alleviating overcrowding and reducing density.

- In Bexar County, Texas,<sup>119</sup> the Sheriff released a COVID-19 mitigation plan that includes encouraging the use of cite and release and “filing non-violent offenses at large,” rather than locking more people up during this pandemic.
- The Baltimore, Maryland State’s Attorney<sup>120</sup> will dismiss pending criminal charges against anyone arrested for drug offenses, trespassing, and minor traffic offenses, among other nonviolent offenses.
- District attorneys in Brooklyn, New York<sup>121</sup> and Philadelphia, Pennsylvania,<sup>122</sup> have taken steps to reduce jail admissions by releasing people charged with non-violent offenses and not actively prosecuting low-level, non-violent offenses.

---

<sup>113</sup> Kayla Branch, *Number of Oklahoma Inmates to be Released Thursday is Lower than Announced*, THE OKLAHOMAN (Apr. 16, 2020), [https://www.tulsaworld.com/news/local/government-and-politics/technical-difficulties-hold-up-commutations/article\\_bbf01b48-d2f0-5229-97f5-4a2f265bafbb.html](https://www.tulsaworld.com/news/local/government-and-politics/technical-difficulties-hold-up-commutations/article_bbf01b48-d2f0-5229-97f5-4a2f265bafbb.html).

<sup>114</sup> Jerry Cornfield, *State Ready to Free Hundreds of Prisoners Amid COVID-19*, BAINBRIDGE ISLAND REVIEW (Apr. 17, 2020), <https://www.bainbridgereview.com/news/state-ready-to-free-hundreds-of-prisoners-amid-covid-19/>.

<sup>115</sup> Caleb Stewart, *Va. Lawmakers Give Dept. of Corrections Power to Release Some Inmates Early*, WHSV 3 (Apr. 23, 2020), <https://www.wHSV.com/content/news/Va-lawmakers-approve-amendment-to-allow-inmate-releases-amid-COVID-19-569887541.html?ref=541>.

<sup>116</sup> Danielle Gains, *Hogan Issues Order to Guide Speedier Inmate Releases During COVID-19 Outbreak*, MARYLAND MATTERS (Apr. 19, 2020), <https://www.marylandmatters.org/2020/04/19/hogan-issues-order-to-guide-speedier-inmate-releases-during-covid-19-outbreak/>.

<sup>117</sup> Nick Swartsell, *DeWine Authorizes Release of 105 Inmates as Coronavirus Cases in Ohio Prisons Swell into the Hundreds*, CITYBEAT (Apr. 16, 2020), <https://www.citybeat.com/news/blog/21128810/dewine-authorizes-release-of-105-inmates-as-coronavirus-cases-in-ohio-prisons-swell-into-the-hundreds>.

<sup>118</sup> [https://madison.com/wsj/news/local/crime-and-courts/wisconsin-doc-has-released-nearly-1-600-inmates-so-far-to-combat-covid-19-spread/article\\_03537daa-e1ec-5fe8-ac68-f5cf38ce8be5.html](https://madison.com/wsj/news/local/crime-and-courts/wisconsin-doc-has-released-nearly-1-600-inmates-so-far-to-combat-covid-19-spread/article_03537daa-e1ec-5fe8-ac68-f5cf38ce8be5.html)

<sup>119</sup> Courtney Friedman, *Bexar County Sheriff Announces COVID-19 Prevention Plan for Jail Inmates, Deputies*, KSAT.COM (Mar. 14, 2020), <https://www.ksat.com/news/local/2020/03/15/bexar-county-sheriff-announces-covid-19-prevention-plan-for-jail-inmates-deputies/>.

<sup>120</sup> Tim Prudente & Phillip Jackson, *Baltimore State’s Attorney Mosby to Stop Prosecuting Drug Possession, Prostitution, Other Crimes Amid Coronavirus*, BALT. SUN (Mar. 18, 2020), <https://www.baltimoresun.com/coronavirus/bs-md-ci-cr-mosby-prisoner-release-20200318-u7kneb6o5gqvnqmtpejftavia-story.html>.

<sup>121</sup> Andrew Denney & Larry Celona, *Coronavirus In NY: Brooklyn DA to Stop Prosecuting “Low-Level” Offenses*, N.Y. POST (Mar. 17, 2020), <https://nypost.com/2020/03/17/coronavirus-in-ny-brooklyn-da-to-stop-prosecuting-low-level-offenses/>.

<sup>122</sup> Samantha Melamed & Mike Newall, *With Courts Closed by Pandemic, Philly Police Stop Low-Level Arrests to Manage Jail Crowding*, PHILA. INQUIRER (Mar. 18, 2020),

- Police departments in Los Angeles County, California,<sup>123</sup> Denver, Colorado,<sup>124</sup> and Philadelphia, Pennsylvania<sup>125</sup> are reducing arrests by using cite and release practices, delaying arrests, and issuing summons. In Los Angeles County, the number of arrests has decreased from an average of 300 per day to about 60 per day.
- The state of Maine<sup>126</sup> vacated all outstanding bench warrants (for over 12,000 people) for unpaid court fines and fees and for failure to appear for hearings in an effort to reduce jail admissions.
- State and federal courts in Connecticut have begun releasing sentenced prison and jail inmates vulnerable to complications from COVID-19 as well.<sup>127</sup>
- In response to the Oklahoma Department of Corrections’ decision not to admit any new people to state prisons, Tulsa and Oklahoma counties are trying to keep their jail population down by not arresting people for misdemeanor offenses and warrants, and by releasing 130 people this past week through accelerated bond reviews and plea agreements.
- In King County, Washington, Seattle jails are no longer accepting people booked for misdemeanor charges that do not present a public safety concern or people who are arrested for violating terms of community supervision. The Department of Adult and Juvenile Detention is also delaying all misdemeanor “commitment sentences” (court orders requiring someone to report to a jail at a later date to serve their sentence).
- In Wisconsin, sheriffs are working to reduce jail populations by replacing arrests with citations and reducing check-ins for people on work release, leading to a reduction of about 50% in the population of some jails.<sup>128</sup>
- The jail and prison population in Maine has shrunk by about 20% due to reduction in arrests, early release, and delayed sentences.<sup>129</sup>
- Police in Minnesota are significantly reducing arrests and traffic stops, leading to significantly reduced jail populations. In one jail, daily bookings are down by 74%.<sup>130</sup>

---

<https://www.inquirer.com/health/coronavirus/philadelphia-police-coronavirus-covid-pandemic-arrests-jail-overcrowding-larry-krasner-20200317.html>.

<sup>123</sup> Salvador Hernandez, *Los Angeles Is Releasing Inmates Early and Arresting Fewer People over Fears of The Coronavirus in Jails*, BUZZFEED NEWS (Mar. 16, 2020),

<https://www.buzzfeednews.com/article/salvadorhernandez/los-angeles-coronavirus-inmates-early-release>.

<sup>124</sup> Schmelzer, *supra* note 88.

<sup>125</sup> Melamed & Newall, *supra* note 122.

<sup>126</sup> Judy Harrison, *Maine Courts Vacate Warrants for Unpaid Fines and Fees*, BANGOR DAILY NEWS (Mar. 16, 2020), <https://bangordailynews.com/2020/03/16/news/state/maine-courts-vacate-warrants-for-unpaid-fines-and-fees>.

<sup>127</sup> Edmund H. Mahony, *Courts Ponder the Release of Low-Risk Inmates in an Effort to Block the Spread of COVID-19 to the Prison System*, HARTFORD COURANT (Mar. 24, 2020), <https://www.courant.com/coronavirus/hc-news-covid-inmate-releases-20200323-20200324-oreyf4kdbf3adv6u6ajsj57u-story.html>.

<sup>128</sup> Rich Kremer, *County Jails Reducing Inmate Populations to Prevent COVID-19 Outbreaks*, WISC. PUBLIC RADIO (Apr. 10, 2020), <https://www.wpr.org/county-jails-reducing-inmate-populations-prevent-covid-19-outbreaks>.

<sup>129</sup> Phil Hirschorn, *Maine Prisons and Jails Increase Safety Precautions, Decrease Population During Coronavirus Outbreak*, WMTW ABC 8 (Apr. 15, 2020), <https://www.wmtw.com/article/maine-prisons-and-jails-increase-safety-precautions-decrease-population-during-coronavirus-outbreak/32147891>.

<sup>130</sup> Libor Jany et al., *COVID-Related Reforms Bring Cautious Optimism From Twin Cities Criminal Justice Activists*, STAR TRIBUNE (Apr. 16, 2020), <https://www.startribune.com/covid-related-reforms-bring-cautious-optimism-from-twin-cities-criminal-justice-activists/569671392/>.

- The Lincoln, Oregon Sheriff's office announced that it would only accept arrestees who had committed serious crimes or posed extreme risk to the community, ultimately halving the number of people held at the jail.<sup>131</sup>
- Following an order issued by the Kentucky Chief Justice ordering many pretrial detainees to be released on their own recognizance, jail populations have reduced significantly, and arrests have decreased across the state from 700 per day to 175 per day.<sup>132</sup>

## Summary and Overall Conclusions

75. ICE operates a nationwide system of immigration detention without the requisite policies, practices, personnel, and plans to ensure conditions of detention that comport with the law. Wyatt is one of 221 facilities in use by ICE today, and one of those 185 facilities that house more than one system's confined population. Wyatt accepts as many as four confined populations – ICE detainees, USMS prisoners, DOJ Bureau of Prison inmates, and Navy personnel pending court martial – populations governed by three different systems of justice – criminal justice, immigration, and martial law. Based upon my review of the materials provided and otherwise available in the public domain, it is my opinion, ICE's instruction and oversight has been insufficient to ensure detainees receive the care they are due as a matter of law, and that Wyatt has failed to provide the care required of it, certainly not the care required during a pandemic.

76. Among ICE's deficiencies, (a) the agency failed to develop and adopt a plan of action that comports with CDC recommendations at all the facilities it uses including Wyatt. (b) ICE failed to implement the various plans it promulgated, one for dedicated and one for nondedicated facilities, one for facilities, its healthcare provided by Immigration Health Service Corp (IHSC), and one for the rest, their healthcare provided according to each contractor's provisions. (c) ICE failed to provide the oversight needed to ensure facilities complied and to intervene when they did not. The coronavirus does not distinguish between dedicated and nondedicated facilities and neither should ICE. Among Wyatt's deficiencies, most fundamentally, the facility failed to implement CDC recommendations; chief among its mistakes, the lack of symptom screening, testing, and an evidence-based quarantine protocol. Wyatt also failed to enforce compliance by staff and all the persons in its custody. Additionally, the facility failed to distinguish in its policies and practices the care, custody, and control afforded civilly held detainees versus criminal defendants and sentenced prisoners.

77. Individuals at Wyatt with medical vulnerability to COVID-19 face irreparable harm if they continue to be detained and are unlikely to pose significant flight or public safety threats if they were released under conditions consistent with objective assessments of risk. The government, including local and federal officials responsible for ICE detainees at NWDC, should release as many of these vulnerable individuals as possible, as quickly as possible, with only

---

<sup>131</sup> Kenneth Lipp, *Jail Inmate Roster Halved*, NEWS TIMES (Apr. 16, 2020), <https://newportnewstimes.com/article/jail-inmate-roster-halved>.

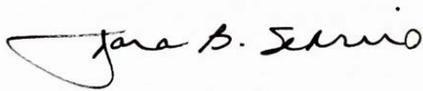
<sup>132</sup> James Mayse, *Arrests Have Declined Dramatically due to Effort to Reduce COVID-19 Exposure*, MESSENGER-INQUIRER (Apr. 17, 2020), [https://www.messenger-inquirer.com/news/arrests-have-declined-dramatically-due-to-effort-to-reduce-covid-19-exposure/article\\_1ea3b65e-febb-52bd-a47a-a60d5565261e.html](https://www.messenger-inquirer.com/news/arrests-have-declined-dramatically-due-to-effort-to-reduce-covid-19-exposure/article_1ea3b65e-febb-52bd-a47a-a60d5565261e.html).

those conditions that are necessary to ensure participation in court proceedings or other appointments.

78. Given the severity of COVID-19 and the rapidly escalating rate of infection and death in the United States, as well as the increased risks in facilities housing ICE detainees, I also recommend that any other individuals deemed likely to comply on appropriate conditions of supervision where necessary, be released immediately to protect themselves, other detainees, correctional and medical staff, and the general public, without impeding immigration court proceedings or other legally-required appointments.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 14th day in May 2020, in New York City, New York.

A handwritten signature in black ink that reads "Dora B. Schriro". The signature is written in a cursive style with a large initial "D" and a period after "B".

---

Dora Schriro

**DORA B. SCHIRO, Ed.D. J.D.**  
EXECUTIVE EXPERIENCE

*State of Connecticut, Middletown CT (2014–2018)*

**CT Homeland Security Advisor** (2016–2018), DHS clearance, Top Secret, appointed by Gov. Dannel Malloy

**Commissioner**, Department of Emergency Services & Public Protection (2014–2018), appt. by Gov. Malloy

- Responsible for CT State Police, Emergency Management & Homeland Security, Scientific Services, Fire Prevention & Control, Police Officer Standards & Training, Statewide Telecommunications.
- FY2018 operating budget, \$185M; federal grants, \$348M; bond funding, \$79M; 1817 employees
- Public Safety & Service, Homeland Security, and Emergency Response, Recovery & Resiliency
- Accomplishments: 1. Comprehensive procedural justice effort with body-worn cameras, all state police on patrol, civilian complaint process, 21<sup>st</sup> century curricula for state & local law enforcement, an investigative protocol for officer-involved shootings, annual reports of uses of force, traffic stops & police pursuits, mandatory police agency accreditation, and ICE-interface protocol; 2. Drug intervention & enforcement including a dark-web opioid taskforce, equipping all troopers and training first responders to administer naloxone; 3. Other harm reduction efforts including a multi-jurisdictional cybersecurity investigative unit, comprehensive gun control, community-focused active shooter preparedness, wrap-around DV safety & support, K-12 & post-secondary school safety planning, and Ebola & Zika first responder protocols

*City of New York, New York, New York (2009–2014)*

**Commissioner**, New York City Department of Correction, appointed by Mayor Michael Bloomberg

- Responsible for adult detention, prisoner processing, and operation of criminal court pens, an average of 12,000 inmates daily and 100,000 pretrial and city-sentenced inmate admissions annually
- FY2014 operating budget, \$1.065B, capital budget, \$691.9M; 10,440 employees
- Focus: Special Populations; Intake, Classification and Discharge Planning; Staff Accountability; Alternatives to Disciplinary Segregation; Alternatives to Detention
- Accomplishments: 1<sup>st</sup> U.S. Social Impact Bond funded program, adolescent pre-release initiative; Justice Reinvestment funded pre-release preparation for adults; pre-trial & post-plea diversion for the mentally ill; comprehensive reform of disciplinary segregation with clinical alternatives for special populations; centralized intake with risk & needs classification, gang identification, and discharge planning

*US Department of Homeland Security, Washington DC (2009–2009)*

**Senior Advisor to Secretary on ICE Detention and Removal**, appointed by DHS Sec. Janet Napolitano

**Director, ICE Office of Detention Policy and Planning**, appointed by ICE Asst. Sec. John Morton

- Focus: Design a civil detention system satisfying all safety and security needs and legal requirements
- Authored, *2009 Report on ICE Detention Policies and Practices: A Recommended Course of Action for Systems Reform*, DHS' adopted template for improving the operation of immigration detention
- Improved the efficiency and effectiveness and increased the transparency of ICE detention operations

*State of Arizona, Phoenix, Arizona (2003–2009)*

**Department Director**, Arizona Department of Corrections, appointed by Gov. Janet Napolitano

- Responsible for adult corrections and community supervision including 39,000 inmates and 7,200 parolees daily and 55,000 felons annually (21,000 admissions/11,500 case openings)
- FY2009 operating budget, \$1.23B; 9,750 employees
- Focus: Systems reform, re-entry, victim services, strategic planning, privatization oversight
- Winner, 2008 Innovations in American Government, and first prison-based reform awards recipient

*City of St. Louis, St. Louis, Missouri (2001–2003)*

**Commissioner of Corrections**, St. Louis City Division of Corrections, appointed by Mayor Francis Slay

- Responsible for adult detention, prisoner processing, and city probation and parole including 1,500 jail inmates and 2,000 offenders on supervision daily (9,000 admissions/63,000 bookings annually)
- FY2003 operating budget, \$68M; 615 employees
- Focus: Population management, alternative sentencing initiatives, staff development
- Opened and operated the city's first combined police prisoner processing and detention center

*State of Missouri, Jefferson City, Missouri (1993–2001)*

**Department Director**, Missouri Department of Corrections, appointed by Gov. Mel Carnahan

- Responsible for adult corrections and probation and parole services including 28,000 prisoners and 65,000 offenders on community supervision daily, 35,000 admissions/72,000 case openings annually
- FY2002 operating budget, \$500M; 11,000 employees
- Focus: Systems and sentencing reform, litigation reduction, restorative justice, capital construction
- Winner, Council of State Governments Innovations award program; four-time Innovations in American Government Finalist and Semi-Finalist

*City of St. Louis, St. Louis Missouri (1989–1993)*

**Correctional Superintendent**, St. Louis City Division of Correction, appointed by Mayor Vince Schoemehl

- Responsible for 600 pre-trial and city sentenced inmates, 4,000 admissions annually
- FY1993 operating budget, \$26M; 210 employees
- Focus: Court oversight, overcrowding, certified juveniles, community relations

*City of New York, New York, New York (1984–1989)*

**Assistant Commissioner**, New York City Department of Correction, appointed by Mayor Ed Koch

- Responsible for design and delivery of inmate programs services, programs development, grants
- Services provided to 100,000 pre-trial and city sentenced inmates annually by 200 employees
- Focus: Public-funded and accredited education, school-aged inmates; contracts management

**Assistant Deputy Director**, Office of the Mayor, Coordinator of Criminal Justice

- Grants administration, federal and state funded systems reforms, \$189M annually
- Focus: Alternatives to detention, intermediate sanctions, policy analysis, applied research

## CONSULTING SERVICES

Dora B. Schriro Consulting Services, LLC (est. 2013)

## EDUCATION

St. Louis University, St. Louis, Missouri, Juris Doctorate, School of Law (2002)

Columbia University, New York, New York, Doctor of Education, Teachers College (1984)

University of Massachusetts at Boston, Massachusetts, Master of Education (1980)

Northeastern University, Boston, Massachusetts, Bachelor of Arts cum laude (1972)

## MANAGERIAL PROGRAMS

Council of State Governments, Toll Fellowship (2018)

Harvard University, JFK School of Government, Innovations in Governance (2005)

Harvard University, JFK School of Government, Strategic Public Sector Negotiations (1996)

Harvard University, JFK School of Government, Senior Executives in State and Local Government (1992)

### HONORS AND AWARDS, INNOVATIONS

Innovations in American Government, 2008 Winner, Getting Ready: Keeping Communities Safe  
Innovations in American Government, 2000 Semi-finalist, Correcting Corrections  
Innovations in American Government, 1999 Semi-finalist, Constituent Services  
Innovations in American Government, 1998 Semi-finalist, Pre-Promotional Training  
Innovations in American Government, 1997 Finalist, Constituent Services  
Council of State Governments, 1998 Innovations Award Winner, Waste Tire to Energy  
Council of State Governments, 1997 Innovations Award Regional Finalist, Pre-Promotional Training  
Council of State Governments, 1996 Innovations Award Finalist, Constituent Services

### OTHER HONORS AND AWARDS

U.S. Department of Justice, Office for Victims of Crime, Allied Professional Award, 2012  
Florida Immigrant Advocacy Center, American Justice Award, 2011  
Hofstra University (Hempstead, New York) Presidential Medal, 2010  
National Governors Association, Distinguished Service to State Government Award, 2006  
Arizona Parents of Murdered Children, Filling Empty Shoes, 2006 Honoree  
Farmingdale Public Schools (Farmingdale, New York), Wall of Fame, 2001 Inductee  
St. Louis Forum, Trailblazer Award, 2000  
Association of Correctional Administrators, Michael Francke Award for Outstanding Leadership, 1999  
Jefferson City (Missouri) Ten Most Influential Women, 1998  
Missouri Governor Award for Quality and Productivity, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000  
Missouri Governor Torch of Excellence Gold Award, 1999  
Missouri Governor Torch of Excellence Award, 1997  
International Association of Correctional Training Personnel Award, Pre-Promotional Training, 1996  
Women's Self-Help Center, Twenty Distinguished Women, 1996  
St. Louis (Missouri) YWCA Special Leadership Award for a Government Official, 1995  
Jefferson City (Missouri) News Tribune Statesman of the Month, June 1995

### PUBLICATIONS, IMMIGRATION DETENTION REFORM

*Weeping in the Playtime of Others: The Obama Administration's Failed Reform of ICE Family Detention Practices*, in *Journal on Migration and Human Security*, The Law that Begot the Modern U.S. immigration Enforcement System: IIRIRA 20 Years Later (December 2018)  
*Women and Children First: An Inside Look at the Impediments to Reforming Family Detention in the U.S.*, in *Challenging Immigration Detention*, ed. by Flynn and Flynn. Edward Elgar Publishing (September 2017)  
*Afterword, Intimate Economies, Anomie and Moral Ambiguity*, in *Intimate Economies of Immigration Detention: Critical Perspectives*, ed. by Conlon and Hiemstra. Routledge Publishers (2016)  
*Improving Conditions of Confinement for Immigrant Detainees: Guideposts toward a Civil System of Civil Detention in The New Deportation Delirium*, ed. by Kanstroom and Lykes. NYU Press (2015)  
*Family Immigration Detention: The Past Cannot be Prologue*, co-author, ABA Commission on Immigration (2015)  
*Envisioning a Civil System of Civil Detention: Our Opportunity, Our Challenge* (Foreword), in *Outside Justice*, ed. by Brotherton, Stageman and Leyro. Springer Press (2013)  
Improving Conditions of Confinement for Criminal Inmates and Immigrant Detainees, *American Criminal Law Review*, Georgetown University Law Center (Fall 2010)  
The 2009 Report on ICE Detention Policies and Practices: A Recommended Course of Action for Systems Reform, U.S. Department of Homeland Security (October 2009)  
Rethinking Civil Detention and Supervision, *Arizona Attorney* (July–August 2009)

## PUBLICATIONS, CORRECTIONS REFORM

*Smart and Safe: Making the Most of Adolescents' Time in Detention, the Physical Plant, Our Workforce, and the "What Works" Literature*, in *The State of Criminal Justice*, American Bar Association (2013)

*Corrections: The Justice-Involved Mentally Ill, A Practitioner's Perspective*, in *The State of Criminal Justice*, American Bar Association (2012)

*Good Science, Good Sense: Making Meaningful Change Happen – A Practitioner's Perspective*, *Criminology & Public Policy*, Vol. 11, No. 1, Special Issue (February 2012)

*Is Good Time a Good Idea?* *Federal Sentencing Reporter*, Vol. 21, No. 3 (February 2009)

*Correcting Corrections: The Arizona Plan: Creating Conditions for Positive Change in Corrections*, *Confronting Confinement: A Report of the Commission on Safety and Abuse in American Prisons* (2006)

*Missouri's Parallel Universe: Blueprint for Effective Prison Management*, *Corrections Today* (April 2001)

*Correcting Corrections: Missouri's Parallel Universe*, *Papers from the Executive Sessions on Sentencing and Corrections*, U.S. Department of Justice, Office of Justice Programs (May 2000)

*Avoiding Inmate Litigation: The 'Show-Me' State Shows How*, *Sheriff's Magazine*, (March–April 1999)

*Best Practices: Excellence in Corrections*, American Correctional Association (August 1998)

*Reducing Inmate Litigation*, *Corrections Today* (August 1998)

*Corrections Management Quarterly*, Issue Editor, Aspen Publications (1997)

*Currents*, Leadership St. Louis, Danforth Foundation (1992)

*What Makes Correctional Education Educational*, *Journal of Correctional Education* (September 1986)

*Safe Schools, Sound Schools*, ERIC Clearinghouse on Urban Education (January 1985)

*What Works with Serious Juvenile Offenders: US Experience*, *Juvenile Delinquency in Australia* (1984)

*What Makes Correctional Education Educational: Ethnography of an Instructionally Effective School*, University Microfilm (1983)

## STANDARDS, SENTENCING AND RELATED CIVIL-CRIMINAL JUSTICE REFORM ACTIVITIES

Women's Refugee Commission, Commissioner (2012–2020)

American Bar Association, Commission on Immigration, Special Advisor (2019–2020)

American Bar Association, Commission on Immigration, Advisory Board Member (2017–2019)

American Bar Association, Commission on Immigration, Standards for the Custody, Placement and Care; Legal Representation, and Adjudication of Unaccompanied Alien Children in the United States (2018)

U.S. Dept. of Homeland Security, DHS Family Residential Ctr. Advisory Committee, member (2015–2016)

American Bar Association, Commission on Immigration, Commissioner (2014–2016)

American Bar Association, Commission on Immigration, Co-chair, Standing Subcommittee on Punitive Segregation, (2012–2014)

American Bar Association, Commission on Immigration, Civil Detention Standards Task Force (2011–2012)

American Bar Association, Criminal Justice Standards Subcommittee, ACA representative (2005–2008)

Arizona State University School of Law, Sentencing Policy Seminar (2004–2005)

Arizona Attorney General Sentencing Advisory Committee (2004–2008)

St. Louis University School of Law, Instructor, Sentencing Policy Seminar (2000–2002)

Missouri Sentencing Advisory Commission, Vice Chair (1994–2001)

U.S. Department of Justice Executive Sessions on Sentencing and Corrections, in conjunction with Harvard University JFK School of Government and University of Minnesota Law School (1997–2000)

Partnership for Criminal Justice Workshop, Institute on Criminal Justice, University of Minnesota Law School, State Partner (1997–2000)

State Sentencing and Corrections Program, Vera Institute of Justice, National Associate (1999–2002)

U.S. Dept. of Justice, Bureau of Justice Assist., Discretionary Grant Program, Peer Reviewer (1994–2002)

## PRE-DOCTORAL EMPLOYMENT, LECTURING AND RELATED EXPERIENCE

### Employment

- Executive Director, Planned Parenthood of Bergen County, Hackensack, New Jersey (1983–1984)
- Director, Correctional Education Consortium, Long Island City, New York (1982–1983)
- Supervising Social Worker, Franklin Public Schools, Franklin, Massachusetts (1978–1981)
- Director, Adult and Continuing Education, Franklin Public Schools, Franklin, MA (1978–1981)
- Director, Staff Development, Wrentham State School, Wrentham, Massachusetts (1977–1978)
- Program Administrator, Medfield-Norfolk Prison Project, Medfield, Massachusetts (1974–1976)

### Academic Experience

- Instructor, Arizona State University School of Law, Corrections Law Seminar (2005–2008)
- Instructor, St. Louis University School of Law, Sentencing Policy (2000–2002)
- Senior Policy Fellow, Public Policy Research Center, University of Missouri-St. Louis (2001)
- Visiting Lecturer, Strategic Planning, National Institute of Corrections (1998–2002)
- Adjunct Professor, Criminal Justice, University of Missouri-St. Louis (1990–1998)
- Adjunct Professor, Criminal Justice, Long Island University at CW Post (1986–1988)
- Instructor, Innovation, Open Center of New York City (1987)
- Teaching Assistant, Field Research Methodology, Administrative Intern to the School Superintendent, Franklin Public Schools, Franklin, Massachusetts (1979)
- Visiting Lecturer, Special Education, Framingham State College, Framingham, Massachusetts (1979)
- Adjunct Professor, Psychology, Fischer Junior College, Boston, Massachusetts (1978)

### Related Activities

- Institutional Research Board, St. Louis University (2002–2003)
- Institutional Research Board, University of Missouri-St. Louis (2001–2003)

### Contact information:

611 King Avenue  
City Island, NY 10464  
917-710-7029  
[dora.schriro@gmail.com](mailto:dora.schriro@gmail.com)

Professional References available upon request