

# **Exhibit L**

Message

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**From:** Pham, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0B0CFA9BCD2549128980F8A3D94D8F74-PHAM, ALEXA]  
**Sent:** 5/27/2020 9:11:24 PM  
**To:** Bonnar, Erik S [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=abddfacc231ce4bf7a76952a374f0421e-Bonnar, Eri]  
**Subject:** RE: COVID-19 Testing Operational Plan [CMD]

10-4.

Alexander Pham  
Assistant Field Office Director  
DHS/ICE/ERO  
800 Truxtun Ave.  
Bakersfield, CA 93301  
[REDACTED] Office  
[REDACTED] Fax

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**From:** Bonnar, Erik S <[REDACTED]>  
**Sent:** Wednesday, May 27, 2020 2:10 PM  
**To:** Pham, Alexander <[REDACTED]>  
**Subject:** FW: COVID-19 Testing Operational Plan [CMD]

Looks like we have been moved to the bench for now.

---

**From:** Jennings, David W <[REDACTED]>  
**Date:** Wednesday, May 27, 2020, 1:59 PM  
**To:** Hott, Russell <[REDACTED]>, Bonnar, Erik S <[REDACTED]>  
**Subject:** RE: COVID-19 Testing Operational Plan [CMD]

Good to go thanks!

---

Field Office Director  
San Francisco, CA

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

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**From:** Hott, Russell <[REDACTED]>  
**Date:** Wednesday, May 27, 2020, 13:42  
**To:** Jennings, David W <[REDACTED]>

---

**Subject:** RE: COVID-19 Testing Operational Plan [CMD]

Hey DJ,

Henry backed away from the full testing, but he still wants to move forward with testing all new intake throughout the phases. The focus will be on IHSC-staffed sites first before retooling.

You're not off the radar just yet, but it won't be the same plan from the initial discussions.

Thanks,  
Russ

---

**From:** Jennings, David W <[REDACTED]>  
**Sent:** Wednesday, May 27, 2020 4:36 PM  
**To:** Hott, Russell <[REDACTED]>  
**Subject:** FW: COVID-19 Testing Operational Plan [CMD]

Hi - we submitted some concerns about being a test place - in short we have no place to cohort anyone who refuses, is positive, etc - were we Removed from the list?

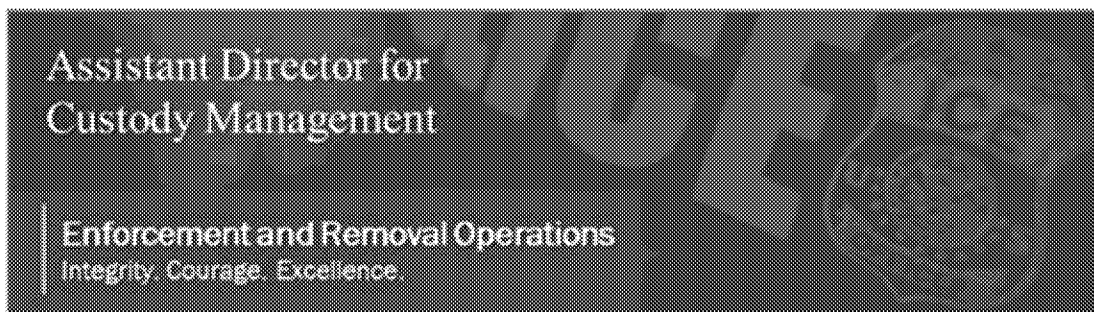
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Field Office Director  
San Francisco, CA

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

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**From:** ERO Assistant Directors <[REDACTED]>  
**Date:** Wednesday, May 27, 2020, 13:19  
**Subject:** COVID-19 Testing Operational Plan [CMD]



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To: Field Office Directors and Deputy Field Office Directors

Effective May 26, 2020, ERO is exploring options to expand COVID-19 testing at detention facilities utilizing molecular testing methodologies to detect SARS-CoV-2 recognized by the Centers for Disease Control and Prevention (CDC) and technology that has been approved by and granted Emergency Use Authorization (EUA) by the U.S. Food and Drug Administration (FDA), including a combination of the Abbott ID NOW instruments for Rapid RNA testing as well as

existing laboratory testing capabilities from commercial laboratories. Only molecular tests to detect SARS-CoV-2 with a current FDA EUA should be used.

Because asymptomatic or pre-symptomatic detainees can be positive for COVID-19 and can transmit the virus to other detainees, ERO will expand the testing of detainees to aid in slowing transmission by identifying those asymptomatic or pre-symptomatic individuals who test positive and isolating them quickly and then quarantining contacts.

All facilities must have written plans to address: 1) additional personal protective equipment (PPE) requirements to ensure safety of staff performing testing, 2) testing operations including detainee movement, 3) continuity of operations for routine health services, and 4) housing considerations during testing and following receipt of results, to include a) housing and care of detainees that test positive if medical housing capacity is exceeded, b) cohorting and housing and monitoring of detainees that test negative but were exposed to detainees that test positive [asymptomatic, positive detainees are considered contagious beginning 48 hours before specimen collected], c) housing detainees that test negative and were not exposed to detainees that test positive, and 4) housing detainees that refuse testing and are not tested.

ERO will execute a phased approach across its network to ensure the safety and security of staff and detainees within its care during the pandemic. Testing will begin with all existing detainees and continue with new intake. New intake cases should be cohorted for 14 days before being tested and introduced to classification and general population.

**Phase 1:** ERO has identified four facilities which will serve as pilot locations for 100% testing. The pilot will continue for 30 days. Within these facilities, the medical contractor and IHSC (when staffed) will proceed with the testing of all new intake detainees and voluntary staff.

**Phase 2:** Within 30 days of the pilot completion, ERO will focus additional testing at IHSC-staffed facilities. Within these facilities, IHSC will proceed with the testing of all new intake detainees.

**Phase 3:** Within 45 days of the pilot completion, ERO will focus additional testing at dedicated facilities. Within these facilities, the medical contractor will proceed with the testing of all new intake detainees.

**Phase 4:** Within 60 days of the pilot completion, ERO will focus additional testing at detention facilities with an ERO population of 100 or greater and facilities experiencing widespread transmission (25 positive cases or more). Within these facilities, the medical contractor will proceed with the testing of all new intake detainees.

**Phase 5:** Within 120 days of the pilot completion, ERO will focus additional testing at detention facilities with an ERO population of 50 or greater. Within these facilities, the medical contractor will proceed with the testing of all new intake detainees.

**Phase 6:** Within 240 days of the pilot completion, ERO will focus additional testing at detention facilities with an ERO population of 10 or greater. Within these facilities, the medical contractor will proceed with the testing of all new intake detainees.

ERO will continue to provide testing for COVID-19, symptomatic detainees, as recommended by the Centers for Disease Control and Prevention (CDC), regardless of the phase of the facility.

The additional testing of asymptomatic detainees will assist in slowing transmissions within a detention setting. ERO recognizes it may also increase the number of COVID-19 positive tests reflected on the agency's public website. However, ERO will be able to better utilize this information for the management of an outbreak at the affected facility.

For additional questions, please contact [ICE\\_ERO\\_CMD@ice.dhs.gov](mailto:ICE_ERO_CMD@ice.dhs.gov).

*Russell Hott*

*Acting ERO Assistant Director, Custody Management*

This message was sent in concurrence with AD Field Operations.

This message expires one year from the date it was sent, pursuant to ERO [policy](#).

*To protect the homeland through the arrest and removal of aliens who undermine the safety of our communities and the integrity of our immigration laws.*



**Enforcement and Removal Operations**  
Integrity. Courage. Excellence.

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# **Exhibit M**

Message

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**From:** Pham, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0B0CFA9BCD2549128980F8A3D94D8F74-PHAM, ALEXA]  
**Sent:** 6/4/2020 11:20:56 PM  
**To:** Gonzalez, Nancy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=61f88186aba3498dbe11ba4368cf67a9-Gonzalez, N]  
**Subject:** FW: MV Expanded COVID-19 Testing  
**Attachments:** Plan

FYI

Alexander Pham  
Assistant Field Office Director  
DHS/ICE/ERO  
800 Truxtun Ave.  
Bakersfield, CA 93301  
[REDACTED] Office  
[REDACTED] Fax

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**From:** Pham, Alexander  
**Sent:** Thursday, June 4, 2020 4:06 PM  
**To:** Chang, Richard F <[REDACTED]>  
**Subject:** FW: MV Expanded COVID-19 Testing

FYI

Alexander Pham  
Assistant Field Office Director  
DHS/ICE/ERO  
800 Truxtun Ave.  
Bakersfield, CA 93301  
[REDACTED] Office  
[REDACTED] Fax

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**From:** Pham, Alexander  
**Sent:** Thursday, June 4, 2020 4:06 PM  
**To:** Jennings, David W <[REDACTED]>  
**Subject:** MV Expanded COVID-19 Testing

Sir,

Per our discussion, below are some key points regarding implementation of COVID-19 testing and the potential outcomes at our facility. I have also attached the email received from Facility Administrator Nathan Allen with the expanded testing plan from GEO's end for your reference.

- MV has 2 medical isolation cells and 3 restrictive housing unit cells. All are currently occupied as is generally always the case
- If/when the first positive case is identified, that subject will need to be placed in medical isolation which will potentially lead to immediate logistical issues
- The corresponding housing unit would also have to be locked down/placed in cohort which means no detainees in or out
- If/when a second positive case is identified, there will likely be no logistical way to cohort/isolate which would then require the clearance of an entire housing unit/dorm in order to accommodate the positive case cohorts
- At present, the thought is to identify the least egregious cases for release if necessary so as to be able to free up a dorm for positive case cohorts. This would present a problem in that if dorm A (with all of the medium-low classification cases) is the unit found to yield the positive case, that entire unit would be placed in quarantine/cohort status which would restrict our movement and/or release of those detainees.
- The resulting decision would then have to be to release cases from the other three units which is where all the more egregious cases are currently housed (likely 25-40 detainees) in order to allow for reorganization and creation of a cohort unit for positive cases only

Please let me know if there is anything I may have missed. If there is anything else that I think of after the fact, I will send a follow-up.

Alexander Pham  
Assistant Field Office Director  
DHS/ICE/ERO  
800 Truxtun Ave.  
Bakersfield, CA 93301

 Office  
Fax

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15 Additional Counsel Listed on Following Page

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11 UNITED STATES DISTRICT COURT  
12  
13 NORTHERN DISTRICT OF CALIFORNIA  
14

15 ANGEL DE JESUS ZEPEDA RIVAS,  
16 BRENDA RUBI RUIZ TOVAR, LAWRENCE  
17 KURIA MWAURA, LUCIANO GONZALO  
18 MENDOZA JERONIMO, CORAIMA  
19 YARITZA SANCHEZ NUÑEZ, JAVIER  
20 ALFARO, DUNG TUAN DANG,

21 Petitioners-Plaintiffs,

22 v.

23 DAVID JENNINGS, Acting Director of the  
24 San Francisco Field Office of U.S. Immigration  
25 and Customs Enforcement; MATTHEW T.  
26 ALBENCE, Deputy Director and Senior  
27 Official Performing the Duties of the Director  
28 of the U.S. Immigration and Customs  
Enforcement; U.S. IMMIGRATION AND  
CUSTOMS ENFORCEMENT; GEO GROUP,  
INC.; NATHAN ALLEN, Warden of Mesa  
Verde Detention Facility,

Respondents-Defendants.

Case No. 3:20-CV-02731-VC

**DECLARATION OF EMILOU  
MACLEAN IN SUPPORT OF  
PETITIONERS-PLAINTIFFS'  
MOTION FOR TEMPORARY  
RESTRAINING ORDER**

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*Attorneys for Petitioners-Plaintiffs*  
*\*Admitted Pro Hac Vice*

1                                   **DECLARATION OF EMILOU MACLEAN IN SUPPORT OF PETITIONERS-**  
2                                   **PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER**

3                   I, Emilou MacLean, pursuant to 28 U.S.C. § 1746, declare as follows:

4           1. I am an attorney admitted to practice in California. I am a deputy public defender in the  
5 immigration unit of the San Francisco Office of the Public Defender and counsel for Petitioners-  
6 Plaintiffs in this action. I submit this declaration in support of Petitioners-Plaintiffs' Motion for a  
7 Temporary Restraining Order and to transmit true and correct copies of the following documents.

8 I have personal knowledge of the facts stated in this declaration.

9           2. Attached as Exhibit A is a true and correct copy of an email I sent to Defendants on June  
10 23, 2020, immediately following Defendants' Status Report to the Court concerning the first  
11 positive test of a Wellpath staff at Mesa Verde. The Exhibit includes Plaintiffs' initial email to  
12 Defendants expressing concern about Defendants' failure to provide sufficient information or take  
13 adequate measures to mitigate the risk of further COVID-19 transmission in the facility. The  
14 Exhibit also includes the complete response of Defendant GEO. Federal Defendants did not  
15 respond to this communication from Plaintiffs.

16           3. Attached as Exhibit B is a true and correct copy of two emails sent by counsel for Federal  
17 Defendants on July 2 and July 6, 2020, respectively, concerning the tests of detainees who had  
18 contact with the first Wellpath staff member who tested positive for COVID-19 at Mesa Verde.

19           4. Attached as Exhibit C is a true and correct copy of a July 6, 2020 email exchange between  
20 William Freeman, counsel for Plaintiffs, and Adrienne Zack, counsel for Federal Defendants,  
21 concerning the transfer of six individuals to Adelanto Detention Center following the positive  
22 COVID-19 test of an individual detainee who was admitted into Mesa Verde on July 1, 2020.

23           5. Attached as Exhibit D is a true and correct copy of a July 12, 2020 email communication  
24 from Adrienne Zack, counsel for Federal Defendants, concerning a positive COVID-19 test for a  
25  
26  
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1 second GEO officer. The officer tested positive on July 5, 2020. (is the third staff member to have  
2 tested positive as the second was identified in Dkt. 407.)

3 6. Attached as Exhibit E is a true and correct copy of a series of emails from Adrienne Zack,  
4 counsel for Federal Defendants, dated July 15, July 16, and July 17, 2020 concerning additional  
5 positive COVID-19 tests of Mesa Verde staff. The July 15 email confirms that three additional  
6 staff members who received positive test results for COVID-19 on July 12. Staff Member 4 is a  
7 medical records clerk; Staff Member 5 is a licensed vocational nurse (LVN); and Staff Member 6  
8 is a GEO Officer. The July 16 email confirms that one additional staff member, a GEO Officer  
9 (also identified as Staff Member 7), tested positive for COVID-19 on July 14. The July 17 email  
10 confirms two additional staff members, a GEO Officer and a Registered Nurse (also identified as  
11 Staff Members 8 and 9), tested positive for COVID-19 with positive results received on July 15  
12 and 16, respectively.

13  
14  
15 7. Attached as Exhibit F is a true and correct copy of a pair of emails from Adrienne Zack,  
16 counsel for Federal Defendants, dated July 22 and 23, 2020, confirming that three additional staff  
17 members tested positive for COVID-19. Two GEO Officers, identified as Staff Members 10 and  
18 11, received a positive test for COVID-19 on July 20. A Registered Nurse, identified as Staff  
19 Member 12, received a positive test on July 22 (from a test taken on July 13).

20  
21 8. Attached as Exhibit G is a true and correct copy of a pair of emails from Adrienne Zack,  
22 counsel for Federal Defendants, dated July 28 and July 29, 2020, and confirming that a 13<sup>th</sup> staff  
23 member at Mesa Verde, a GEO Officer, received a positive test for COVID-19 on July 28.

24 9. Attached as Exhibit H is a true and correct copy of a pair of emails from Adrienne Zack,  
25 counsel for Federal Defendants, dated July 30 and July 31, 2020, concerning a second individual  
26 detainee who tested positive for COVID-19 at intake after showing symptoms. The individual  
27 with whom he had contact during transport was placed in Dorm B. A third individual detainee,  
28

1 who had been in Dorm B, also tested positive for COVID-19 on July 29, 2020, and was placed  
2 into medical isolation. The remaining detainees in Dorm B were placed “on cohort for 14-day  
3 monitoring” and, subsequently, offered testing.

4       10. Attached as Exhibit I is a true and correct copy of an email exchange between counsel for  
5 Plaintiffs and counsel for Defendants concerning a proposal from Plaintiffs for periodic and  
6 universal testing, contact tracing, and segregating detainees based on whether and how they test  
7 for COVID-19. Sean Riordan, counsel for Plaintiffs, sent a proposal on July 24. Following a meet  
8 and confer on July 27, Mr. Riordan sent a follow-up to the proposal on July 28, answering  
9 questions identified by counsel for Defendants. Counsel for Defendants provided no further  
10 substantive response.  
11

12       11. Attached as Exhibit J is a true and correct copy of an email exchange initiated on August  
13 1, 2020 concerning reports of an individual detainee who tested positive for COVID-19 and was  
14 subsequently hospitalized. This email exchange includes all directly responsive communications.  
15 On August 1, 2020, Genna Beier, counsel for Plaintiffs, notified Defendants that Plaintiffs heard  
16 reports that a medically vulnerable and elderly individual tested positive for COVID-19 inside  
17 Mesa Verde. Ms. Beier asked for additional information and for Defendants to take affirmative  
18 steps to mitigate the risks of further transmission of COVID-19 among the detainee population in  
19 Mesa Verde. On August 2, 2020, Susan Coleman, counsel for Defendant GEO responded that the  
20 individual detainee of concern “was released to his family and is no longer in custody,” but did  
21 not provide further responses to Plaintiffs’ questions. On August 3, 2020, Shiwon Choe, counsel  
22 for Federal Defendants, did not answer the questions posed but provided that “ICE has requested  
23 that GEO offer COVID-19 testing to all detainees in Dorm C” and that “Mesa Verde does not  
24 have enough rapid testing available to test all detainees.” At 1:56 PM, I wrote to Defendants with  
25 additional reports received by counsel for Plaintiffs of further positive COVID-19 tests of  
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1 individual detainees at Mesa Verde. In response, at 3:48 PM, Mr. Choe wrote that counsel for  
2 Defendants “have received word that five detainees in Dorm B who were tested on July 30 had  
3 results come back that were positive for COVID-19” and “Dorms B and C currently remain  
4 cohorted.”

5  
6 12. Attached as Exhibit K is a true and correct copy of an email from Adrienne Zack, counsel  
7 for Federal Defendants, dated August 3, 2020, confirming the positive test of an individual  
8 detainee in Dormitory C following his admission to the emergency room for COVID-19 testing  
9 on July 31, 2020, and his subsequent release on an order of supervision on August 2, 2020. This  
10 individual is the individual referenced by Ms. Beier in the August 1, 2020 email included herein  
11 as Exhibit J.

12  
13 13. Attached as Exhibit L is a true and correct copy of an email from ERO Assistant Directors  
14 to Field Office Directors and Deputy Field Office Directors, dated May 27, 2020; and a response  
15 from ICE San Francisco Field Office Director David Jennings, produced as ICE 682.

16  
17 14. Attached as Exhibit M is a true and correct copy of an email from Assistant Field Office  
18 Director Alexander Pham to Field Office Director David Jennings, dated June 4, 2020, produced  
19 as ICE 637.

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

21 Executed on August 3, 2020 in Berkeley, California.

22 /s/ Emilou MacLean  
23 Emilou MacLean

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 3rd day of August, 2020, a true and correct copy of this Declaration was served via electronic mail on (1) Shiwon Choe, counsel for Federal Defendants and (2) Susan Coleman, counsel for GEO Defendants.

/s/ Martin S. Schenker  
Martin S. Schenker  
Cooley LLP

*Attorney for Petitioners-Plaintiffs*

# **Exhibit B**



## Message

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**From:** Pham, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0B0CFA9BCD2549128980F8A3D94D8F74-PHAM, ALEXA]  
**Sent:** 5/21/2020 4:59:13 PM  
**To:** Pham, Alexander [REDACTED]  
**Subject:** Management Conference Call Notes

Recently, GEO and HQ came up with a sweeping plan to expand testing at four sites. For the individuals that Mesa Verde, Tacoma, Adelanto, and Aurora. The IHSC plan or guideline is that we will be cohorting into four main groups. Subjects who tested positive, negative, pending, and refused testing. The original idea was that everyone would be offered the opportunity to be tested including staff. However, this would not be required and only considered voluntary outside of the normal guidelines that would require testing such as a subject either being symptomatic or answering positively to the COVID questionnaire questions surrounding their exposure to a positive case somewhere. This is the reason for the 4<sup>th</sup> cohort category in subjects refusing the test.

Testing kits were received on Tuesday the 19<sup>th</sup>. However, the details are still being hashed out so no plan has been put into place as far as how each facility will be implementing their version of the expanded testing. We also don't have a finalized plan for how the kits will be processed as far as which lab they would be going to. After talking to the warden, it appears that the initial plan GEO was to ship out the kits to a lab in Florida. However, he and I both agreed that this would introduce some serious problems with management of the kits and turnaround times.

With regard to central American Charter removals - we are being told by El Paso staging that they will be handling testing once the bodies get there for staging. However, we are looking at potentially working out a way to handle it locally if there is potential productivity in that.

At this time though, due to constraints that the IHSC guidelines would put on our housing resources, we will be limiting the scope of testing as much as possible. So out of the gate, we don't foresee testing anyone other than those cases that would have otherwise required 14 day quarantine anyway.

Currently, we have multiple suicide watch cases and a couple of protective custody cases taking up all of our ISO cells. Just to remind everyone, anyone who is a street arrest will require 14 day quarantine. Also, anyone that came out of a jail or other facility that hadn't been there more than a few days is also being treated with the same protocols since they didn't have an opportunity to be medically cleared.

We are otherwise still taking bodies in detention is deemed necessary and appropriate based on an assessment of the totality of factors in a particular subject's case. The obvious ones being potential risk to public safety, immigration case status, SLRRFF, etc.

Our count is currently at 182 which has required a steady stream of reduction on our part. The district court still hasn't given us a hard number of where they would like us to be in order to accommodate whatever they deem as safe for the detainee population. At this time, they are just issuing orders for individual detainees and granting several releases per day on average.

Through an internal assessment, MV would likely not be able to accommodate more than 27 to a dorm depending on how stringent the judge decides to get with what he deems necessary to accommodate his understanding of social distancing in all areas and settings where detainees will be throughout the facility.

Alexander Pham  
Assistant Field Office Director  
DHS/ICE/ERO  
800 Truxtun Ave.  
Bakersfield, CA 93301  
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 Fax

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# Exhibit C

# MEMORANDUM



Date: May 18, 2020

To: Paul Laird, Western Region Vice President

From: Nathan Allen, Facility Administrator

GEO Secure Services™  
Mesa Verde ICE Processing Center  
425 Golden State Ave.  
Bakersfield, CA 93301

Tel: [REDACTED]  
Fax: [REDACTED]  
www.geogroup.com

**RE: COVID-19 TESTING OPERATIONAL PLAN**

---

In preparation for the testing of detainees at the Mesa Verde ICE Processing Center for COVID-19 infections, this Operational Plan will be implemented on May 20, 2020 for all detainees. The following outlines this protocol:

## Testing

The protocols for testing procedures are outlined by the Company's packet insert (see attached). Training for medical staff will be conducted through Wellpath Medical.

## Detainee Testing

Testing will begin May 20, 2020 pending test kit arrival. Housing Units being tested will be locked down and detainees will be called to the testing area at the front of the dorm one at a time. Medical personnel will seek consent and provide educational material prior to the testing taking place.

Detainees consenting to be tested will be provided the appropriate educational material, including consent form for their signature, fill out a wellness questionnaire checklist and be swabbed for detection of COVID-19 (see attached).

Detainees refusing testing will be cohorted for a period of fourteen (14) days in a dorm together in accordance with classification levels. Tested detainees will be cohorted in separate dorms pending test results, which is anticipated to be approximately 3-5 days.

Detainees testing positive will be moved to pre-designated medical isolation areas, medical department or general population living area depending on the number of positive tests.

- A team of four medical professionals: One (1) Nurse Practitioner; two (2) Nurses (RN or LVN); and, one (1) Medical Records Clerk. The NP will perform the swabbing, the nurses will conduct the wellness questionnaire checklist, catalog and process the tests; and, the medical records technicians will perform data entry.

- Detainees will be called to the testing area one at a time, which will allow for social distancing.
- There will be an ancillary security staff member assigned to assist the testing process, escorting, etc.
- Any detainee who tests positive will be quarantined appropriately according to CDC guidelines.
- Current detainee population afforded testing: 191 (population numbers may fluctuate)
- Test results will be provided to ICE as they are received.

### **Testing Results**

Wellpath Medical will Fed-Ex the specimens daily to Cardiotropic Labs in Florida. It is expected the results will return within three (4) days. Wellpath Health Services staff have direct access to the laboratory's results web portal. The HSA will check the portal nightly and if there are no results reported, will check again in the morning and two-three hours thereafter until all results are received.

### **Staff Testing**

Staff testing is anticipated to begin following the completion of detainee population testing. Staff will report to the visitation area for staff testing. Testing will be offered from 06:30am to 11:00am on day one and 12:00 to 4:30pm on day two. Testing information will be provided to all staff during staff briefings and via the Rave System each day to notify staff of the voluntary testing. Aside from offering tests to all staff, the testing will also be offered to all GEO contractors and ICE staff who are working in the facility during the COVID-19 pandemic.

Medical professionals, with the assistance medical records staff, will be available for staff testing.

- All staff will be eligible for this voluntary testing program during this time.
- Staff will report to the visitation room for testing. Staff will be reminded to maintain social distancing.
- Staff consenting to be tested will sign the appropriate consent form and be provided the accompanying education handout (see attached)
- Corporate Health Services will pull the results of the test from the Lab Corp portal.
- The positive test results for operations staff will be provided to the HRM and Facility Administrator.
- The positive results for Wellpath medical staff will be provided by the Wellpath CMO or his/her designee.

- The facility HR representative will notify the Facility Administrator of the staff members having the positive results in order to be able to implement coverage for the staff members and to provide them Return to Work Guidelines. (See attached).
- Test results will be provided to ICE as received.

On an ongoing basis, all new ICE commitments will be tested with results provided to ICE as they are received.

# **Exhibit D**

## Message

---

**From:** Jennings, David W [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2E779C39C27346C9A5DCF31DC93A6B8E-JENNINGS, D]  
**Sent:** 5/21/2020 7:16:23 PM  
**To:** Bonnar, Erik S [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=abddfacc231ce4bf7a76952a374f0421e-Bonnar, Eri]  
**Subject:** RE: COVID-19 testing of asymptomatic intakes (STREET ARRESTS ONLY)

Holy crap no you can not

---

Field Office Director  
San Francisco, CA

Sent with BlackBerry Work  
(www.blackberry.com)

---

**From:** Bonnar, Erik S <[REDACTED]>  
**Date:** Thursday, May 21, 2020, 12:08  
**To:** Jennings, David W <[REDACTED]>  
**Subject:** FW: COVID-19 testing of asymptomatic intakes (STREET ARRESTS ONLY)

See below. Seems this new "tool" is all for not. It appears GEO has no interest in conducting asymptomatic testing AND the test kits GEO secured are not the IHSC recommended type. You can't make this shit up.

---

**From:** Pham, Alexander <[REDACTED]>  
**Date:** Thursday, May 21, 2020, 11:15 AM  
**To:** Bonnar, Erik S <[REDACTED]>  
**Subject:** FW: COVID-19 testing of asymptomatic intakes (STREET ARRESTS ONLY)

FYI – Throws a wrench in things.

Alexander Pham  
Assistant Field Office Director  
DHS/ICE/ERO  
800 Truxtun Ave.  
Bakersfield, CA 93301

[REDACTED] Office  
[REDACTED] Fax

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---

**From:** Nathan Allen [REDACTED]  
**Sent:** Thursday, May 21, 2020 10:58 AM  
**To:** Pham, Alexander [REDACTED]  
**Subject:** Fw: COVID-19 testing of asymptomatic intakes (STREET ARRESTS ONLY)

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact [ICE SOC SPAM](#) with questions or concerns.

Hi Alex, discussed our conversation with medical and this is what they've stated/recommended.

---

**From:** Wendy M. Baca [REDACTED]  
**Sent:** Thursday, May 21, 2020 10:52 AM  
**To:** Nathan Allen [REDACTED]  
**Cc:** Brooke Sanchez-Othon [REDACTED]; Richard M. Medrano [REDACTED]; Tiffany Thompson [REDACTED]  
**Subject:** [EXTERNAL] COVID-19 testing of asymptomatic intakes (STREET ARRESTS ONLY)

Sir-  
I discussed the recommendation/request from AFOD Pham to test asymptomatic street arrests for COVID-19 with Dr. Medrano, Regional Medical Director.

A couple of things to keep in mind and concerns:

- Testing street arrests and releasing them to GP after a negative test result will not ensure COVID-19 does not make it into the facility. This is due to the incubation period (generally 14 days) needed to trigger a positive COVID-19 test result.
  - Patient may be COVID positive and test negative up to day 7 after exposure.
- Testing asymptomatic arrivals is not recommended by IHSC
- Will GEO allow the use of their "mass" testing supplies be used for these street arrests? If not, IHSC will **not** pay for testing of asymptomatic detainees.
- At this time IHSC is not recommending the oral-pharyngeal swab - which is what was provided with the GEO mass testing supplies.

I've copied Dr. Medrano and he can add anything I've missed or make any corrections.

Thank you,  
Wendy

Wendy Baca, Acting HSA  
Mesa Verde ICE Processing Center  
Private Prisons Division  
**wellpath**  
425 Golden State Avenue  
Bakersfield, California 93301  
[REDACTED]

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# CONFIDENTIAL

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# **Exhibit E**

Message

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**Sent:** 5/27/2020 8:57:16 PM  
**To:** Pham, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0b0cfa9bcd2549128980f8a3d94d8f74-Pham, Alexa]  
**Subject:** FW: COVID-19 Testing Operational Plan [CMD]

I don't know if we are still part of this. I figure we are. This is being pushed by forces outside of ICE. I see two options if our hand is forced. Let the lows go and don't take anymore in. Get a classification housing waiver so we can hold the four groups regardless of criminal history.

---

**From:** ERO Assistant Directors [REDACTED]  
**Date:** Wednesday, May 27, 2020, 1:19 PM  
**Subject:** COVID-19 Testing Operational Plan [CMD]

# **Exhibit F**

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

---oOo---

ANGEL DE JESUS RIVAS, BRENDA  
RUBI RUIZ TOVAR, LAWRENCE  
KURIA MWAURA, LUCIANO GONZALO  
MENDOZA HERONIMO, CORAIMA  
YARITZA SANCHEZ NUÑEZ, JAVIER  
ALFARO, DUNG TUAN DANG,

Petitioner-Plaintiffs,

vs.

No. 3:20-CV-02731-VC

DAVID JENNINGS, Acting  
Director of the San Francisco  
Field Office of U.S.  
Immigration and Customs  
Enforcement; MATTHEW T.  
ALBENCE, Deputy Director and  
Senior Official Performing  
the Duties of the Director of  
the U.S. Immigration and  
Customs Enforcement; U.S.  
IMMIGRATION AND CUSTOMS  
ENFORCEMENT; GEO GROUP, INC.;  
NATHAN ALLEN, Warden of Mesa  
Verde Detention Facility,  
Respondents-Defendants.

-----/

REMOTE VIDEOTAPED DEPOSITION VIA ZOOM OF  
ALEXANDER PHAM

-----  
WEDNESDAY, JULY 29, 2020

\*\*\*CONFIDENTIAL\*\*\*

REPORTED BY: HOLLY THUMAN, CSR No. 6834, RMR, CRR  
(4190658)

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Remote videotaped deposition of ALEXANDER PHAM, taken by the Petitioner-Plaintiffs, with the witness located in Bakersfield, California, commencing at 10:10 A.M. Pacific Time, on WEDNESDAY, JULY 29, 2020, before me, HOLLY THUMAN, CSR, RMR, CRR.

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(ALL APPEARANCES REMOTE)

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1 (Appearances, cont'd)

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4 MICHAELA SANCHEZ

5 MADDIE BOYD

6 TEEGAN LEE

7 KATE MATHER

8 TAYLOR CHAMBERS

9 KELLY HERNANDEZ

10 TARA COUGHLIN

11 NATHAN ALLEN

12 DANIELA BERNSTEIN

13 ARDALAN RAGHIAN

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1	BY MS. MacLEAN:	12:48:58
2	Q. Do you recall that there was a number that	12:48:59
3	ICE and GEO had reached about how many people could	12:49:04
4	be safely in a particular dorm?	12:49:07
5	A. I don't recall that.	12:49:10
6	MR. CHOE: Object to the characterization.	12:49:11
7	(The reporter requested that people not	12:49:14
8	speak at once.)	12:49:14
9	THE WITNESS: I don't recall.	12:49:17
10	MR. CHOE: Objection.	12:49:18
11	Sorry. We were talking over each other.	12:49:23
12	Objection.	12:49:25
13	BY MS. MacLEAN:	12:49:26
14	Q. Do you recall any discussions about	12:49:26
15	whether testing everyone would require more	12:49:32
16	releases of detainees?	12:49:37
17	A. Could you please repeat that question?	12:49:41
18	Q. Do you recall any conversations about	12:49:43
19	whether universal testing of all detainees or	12:49:46
20	offering universal testing to all detainees would	12:49:50
21	require more detainees to be released?	12:49:53
22	A. I recall having conversations on that	12:49:56
23	topic, but I don't remember the specifics of those	12:49:57
24	conversations.	12:50:00
25	Q. What do you recall generally about those	12:50:03

1	conversations?	12:50:05
2	A. Exactly what you stated.	12:50:11
3	Q. What is that?	12:50:16
4	A. That in order for us to expand testing to	12:50:21
5	offering it to the entire detainee population, that	12:50:26
6	it would likely involve having to make operational	12:50:31
7	decisions to allow for the cohort groups to exist.	12:50:38
8	Q. When you say "operational decisions to	12:50:46
9	allow for the cohort groups to exist," do you mean	12:50:48
10	that there would have to be decisions to release	12:50:51
11	people?	12:50:54
12	A. Potentially.	12:50:56
13	Q. And were you involved from some of those	12:50:59
14	conversations?	12:51:01
15	A. I'm sorry. Could you be more specific?	12:51:04
16	Q. Do you recall concluding that for a -- for	12:51:06
17	a universal testing plan to be implemented, some	12:51:12
18	detainees would have to be released?	12:51:15
19	MR. CHOE: Objection.	12:51:17
20	THE WITNESS: I don't recall specifically	12:51:26
21	what was going through my mind at the time that	12:51:27
22	you're referring to.	12:51:29
23	I just know that in consideration of	12:51:30
24	expanded testing, one of the factors that would	12:51:37
25	need to be considered would be releasing some	12:51:42

1 detainees in order to make it logistically 12:51:49  
2 possible. That was -- 12:51:53  
3 BY MS. MacLEAN: 12:51:58  
4 Q. Do you recall who was involved -- sorry. 12:51:58  
5 Continue. 12:52:00  
6 A. I don't recall the specific conversations, 12:52:00  
7 but again, these are conversations that would have 12:52:02  
8 involved my management chain. 12:52:06  
9 Q. So when you say your "management chain," 12:52:09  
10 do you mean yourself, DFOD Bonnar, and Field Office 12:52:11  
11 Director Jennings? 12:52:14  
12 A. Yes. 12:52:17  
13 Q. Do you recall whether there had ever been 12:52:18  
14 progress that was made in identifying detainees who 12:52:21  
15 could be released if there were the implementation 12:52:25  
16 of a plan to expand testing? 12:52:31  
17 MR. CHOE: Objection. Vague and objection 12:52:34  
18 to "could be released." 12:52:35  
19 THE WITNESS: I'm not sure how to answer 12:52:39  
20 that. 12:52:40  
21 Could you please be more specific? 12:52:41  
22 BY MS. MacLEAN: 12:52:42  
23 Q. Do you recall identifying detainees who 12:52:42  
24 could be released if there were a plan in place for 12:52:45  
25 universal testing? 12:52:51

1 MR. CHOE: Objection. 12:52:54

2 THE WITNESS: I don't remember as I sit 12:52:57

3 here the timelines for when those actions occurred, 12:52:59

4 but I do know that at some point, we did go through 12:53:03

5 and identify detainees that could potentially be 12:53:09

6 released. 12:53:20

7 BY MS. MacLEAN: 12:53:21

8 Q. Do you recall approximately how many 12:53:21

9 people were on that list? 12:53:22

10 A. I don't recall that. 12:53:25

11 Q. Do you recall whether those people were 12:53:27

12 released? 12:53:29

13 A. I don't recall that either. 12:53:31

14 Q. Do you think that those people were 12:53:33

15 released? 12:53:34

16 MR. CHOE: Objection. Speculation. 12:53:35

17 THE WITNESS: I don't know how to answer 12:53:41

18 that. 12:53:42

19 BY MS. MacLEAN: 12:53:42

20 Q. Do you recall making the decision to 12:53:45

21 release those people? 12:53:47

22 MR. CHOE: Objection. 12:53:50

23 THE WITNESS: Could you please repeat that 12:53:59

24 question? 12:54:00

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CERTIFICATE OF REPORTER

I, HOLLY THUMAN, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth in the within-entitled cause; that said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein stated; and that the testimony of said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

That before completion of the deposition review of the transcript [X] was [] was not requested/offered. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition, nor in any way interested in the event of this cause, and that I am not related to any of the parties thereto.

DATED: this 3rd day of August, 2020.



HOLLY THUMAN, CSR

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

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11 UNITED STATES DISTRICT COURT  
12  
13 NORTHERN DISTRICT OF CALIFORNIA  
14

15 ANGEL DE JESUS ZEPEDA RIVAS,  
16 BRENDA RUBI RUIZ TOVAR, LAWRENCE  
17 KURIA MWAURA, LUCIANO GONZALO  
18 MENDOZA JERONIMO, CORAIMA  
19 YARITZA SANCHEZ NUÑEZ, JAVIER  
20 ALFARO, DUNG TUAN DANG,

21 Petitioners-Plaintiffs,

22 v.

23 DAVID JENNINGS, Acting Director of the  
24 San Francisco Field Office of U.S. Immigration  
25 and Customs Enforcement; MATTHEW T.  
26 ALBENCE, Deputy Director and Senior  
27 Official Performing the Duties of the Director  
28 of the U.S. Immigration and Customs  
Enforcement; U.S. IMMIGRATION AND  
CUSTOMS ENFORCEMENT; GEO GROUP,  
INC.; NATHAN ALLEN, Warden of Mesa  
Verde Detention Facility,

Respondents-Defendants.

Case No. 3:20-CV-02731-VC

**DECLARATION OF EMILOU  
MACLEAN IN SUPPORT OF  
PETITIONERS-PLAINTIFFS'  
MOTION FOR TEMPORARY  
RESTRAINING ORDER**



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1                                   **DECLARATION OF EMILOU MACLEAN IN SUPPORT OF PETITIONERS-**  
2                                   **PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER**

3                                   I, Emilou MacLean, pursuant to 28 U.S.C. § 1746, declare as follows:

4                                   1. I am an attorney admitted to practice in California. I am a deputy public defender in the  
5 immigration unit of the San Francisco Office of the Public Defender and counsel for Petitioners-  
6 Plaintiffs in this action. I submit this declaration in support of Plaintiffs-Petitioners' Reply in  
7 support of a Temporary Restraining Order and to transmit true and correct copies of the following  
8 documents. I have knowledge of the following and if called as a witness I could and would testify  
9 competently thereto.

10                                  2. Attached as Exhibit A is a true and correct copy of an August 5, 2020 email from  
11 Adrienne Zack, counsel for Federal Defendants, concerning the fourteenth GEO employee to test  
12 positive for COVID-19 at Mesa Verde.

13                                  3. Attached hereto are the following true and correct copies of the following documents  
14 produced by Defendants Immigration and Customs Enforcement and GEO Group, Inc. in  
15 response to a request for production of documents served by Plaintiffs.  
16

17

<b>Exhibit</b>	<b>Document Description</b>
B	May 21, 2020 Email from ICE Assistant Field Office Director Alexander Pham to himself regarding "Management Conference Call Notes" (ICE 691)
C	May 18, 2020 GEO Memorandum from Paul Laird, Western Region Vice President to Nathan Allen, Mesa Verde Facilities Administrator, Re: "COVID-19 Testing Operational Plan" (GEO 134)
D	May 21, 2020 Email exchange between Wendy Baca, Acting Health Services Administrator, Mesa Verde ICE Processing Center, Wellpath, and Nathan Allan, Mesa Verde Facilities Administrator, GEO (copying Wellpath staff Richard Medrano, Regional Medical Director, Brooke Sanchez Othon, Registered Nurse and Tiffany Thompson, Registered Nurse regarding "COVID-19 testing of asymptomatic intakes (STREET ARRESTS ONLY)"; forwarded to ICE Assistant Field Office Director Alexander Pham; and subsequently to ICE Deputy Field Office Director Erik Bonnar; and subsequently to ICE Field Office Director David Jennings (ICE 1944)

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E	May 27, 2020 Email communication to ICE Assistant Field Office Director Alexander Pham Re: "COVID-19 Testing Operational Plan" (ICE 1854)
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4. Attached as Exhibit F is a true and correct copy of excerpts (pages 103-106) of the deposition transcript of ICE Assistant Field Office Director Alexander Pham, taken on July 29, 2020.

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

Executed on August 6, 2020 in Berkeley, California.

/s/ Emilou MacLean  
Emilou MacLean

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 6th day of August, 2020, a true and correct copy of this Declaration was served via electronic mail on (1) Shiwon Choe, counsel for Federal Defendants and (2) Susan Coleman, counsel for GEO Defendants.

/s/ Emilou MacLean  
Emilou MacLean  
San Francisco Office of the Public Defender  
*Attorney for Petitioners-Plaintiffs*

# Exhibit A

Message

---

**From:** Cheryl Nelson [REDACTED]  
**Sent:** 6/5/2020 7:32:45 AM  
**To:** Nathan Allen [REDACTED]  
**CC:** Paul Laird [REDACTED]  
**Subject:** Re: Plan [REDACTED]

Got it, please keep us posted on growing developments.

**Cheryl Nelson**  
DIRECTOR OF OPERATIONS, GEO SECURE SERVICES

**The GEO Group, Inc. ©**  
**Western Region Office**  
6100 Center Drive, Suite 825  
Los Angeles, CA 90045

Tel: [REDACTED] Fax: [REDACTED]  
Mobile: [REDACTED]

[REDACTED]  
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**From:** Nathan Allen [REDACTED]  
**Sent:** Thursday, June 4, 2020 1:48 PM  
**To:** Cheryl Nelson [REDACTED]  
**Cc:** Paul Laird [REDACTED]  
**Subject:** Plan [REDACTED]

Just got off the phone with Alex. He said he's going to engage his chain again due to what happens if a positive test(s) comes up. During the conversation he was under the impression if a detainee tested positive (even with no symptoms) we could leave him in the dorm during the 14 day cohort. Told him we wouldn't be able to do that with all the protocols (IHSC/Public Health) in place, the continued exposure to the other detainees, and the need to do follow up tests before a positive can be cleared to return to GP. I'll follow up if I hear anything else.

**Nathan (Nate) Allen**  
Facility Administrator, GEO Secure Services

**The GEO Group, Inc. ©**  
Mesa Verde ICE Processing Center  
425 Golden State Ave  
Bakersfield, CA 93301

Tel: [REDACTED] Mobile: [REDACTED]  
Fax: [REDACTED]

[REDACTED]  
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# Exhibit B



Message

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**From:** Nathan Allen [REDACTED]  
**Sent:** 7/1/2020 10:32:06 PM  
**To:** Cheryl Nelson [REDACTED]  
**CC:** Paul Laird [REDACTED]  
**Subject:** Re: MVIPC POSITIVE COVID CASE ON INTAKE

Sent from my Verizon, Samsung Galaxy smartphone  
Get [Outlook for Android](#)

---

**From:** Nathan Allen [REDACTED]  
**Sent:** Wednesday, July 1, 2020 10:21:40 PM  
**To:** Cheryl Nelson [REDACTED]  
**Cc:** Paul Laird [REDACTED]  
**Subject:** Re: MVIPC POSITIVE COVID CASE ON INTAKE

The AFOD said they are going to try and move the 4 that came with the positive detainee someplace in the morning, they'll have to stay in intake for the night. The positive will stay in med ISO. The two that came in a different vehicle but were allegedly with the 5 at the ICE office are stagers and might leave in the morning. We have two female stagers coming in tonight that will go into the medical hold room until the morning when they leave.

Sent from my Verizon, Samsung Galaxy smartphone  
Get [Outlook for Android](#)

---

**From:** Nathan Allen [REDACTED]  
**Sent:** Wednesday, July 1, 2020 9:27:39 PM  
**To:** Cheryl Nelson [REDACTED]  
**Cc:** Paul Laird [REDACTED]  
**Subject:** Re: MVIPC POSITIVE COVID CASE ON INTAKE

Will do.

Sent from my Verizon, Samsung Galaxy smartphone  
Get [Outlook for Android](#)

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**From:** Cheryl Nelson [REDACTED]  
**Sent:** Wednesday, July 1, 2020 9:21:09 PM  
**To:** Nathan Allen [REDACTED]  
**Cc:** Paul Laird [REDACTED]  
**Subject:** Re: MVIPC POSITIVE COVID CASE ON INTAKE

Copy. Please keep us posted on the disposition of the remaining detainees who rode in the same vehicle with the positive case, as well as those who allegedly had close contact with the positive case when they were together at the ICE office.

Sent from my Verizon, Samsung Galaxy smartphone

Get [Outlook for Android](#)

---

**From:** Nathan Allen [REDACTED]  
**Sent:** Wednesday, July 1, 2020 8:37:41 PM  
**To:** Cheryl Nelson [REDACTED]  
**Cc:** Paul Laird [REDACTED]  
**Subject:** Fwd: MVI PC POSITIVE COVID CASE ON INTAKE

Hi Cheryl, as discussed. I'll let you know what ICE does with the other potential exposures as I cannot put them in the dorms (with the risk of spreading an infection) and I do not have space for 6 in cohort. Alex and Janese are fully aware.

Sent from my Verizon, Samsung Galaxy smartphone  
Get [Outlook for Android](#)

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**From:** Wendy M. Baca [REDACTED]  
**Sent:** Wednesday, July 1, 2020, 8:26 PM  
**To:** Pham, Alexander; Mull, Janese N; Nathan Allen; [REDACTED]; Nowell, James A  
**Cc:** Obasi, Uruaku A; Brooke Sanchez-Othon; Richard M. Medrano; Kenneth Lassiter; Tiffany Thompson  
**Subject:** [EXTERNAL] MVI PC POSITIVE COVID CASE ON INTAKE

ALL FYSA-

The following detainees arrived at MVI PC 7/1/20 at approximately 1700. Detainee [REDACTED] was the only detainee who did not decline testing and tested positive on the Abbott ID NOW test. Detainee [REDACTED] was placed into medical isolation/negative pressure and a nasopharyngeal swab specimen has been collected to be sent for more sensitive testing. The other 4 detainees are being held in intake and will need to be cohorted for 14 days and monitored.

[REDACTED]

Two other detainees (stagers listed below) arrived at approximately 1800 and reported being in the same holding cell at the ICE/ERO office. They too are being held in intake pending information on how they were held at the ERO Office.

[REDACTED]

More to come.

Thank you,  
Wendy

Wendy Baca, Acting HSA  
Mesa Verde ICE Processing Center  
Private Prisons Division  
wellpath

425 Golden State Avenue  
Bakersfield, California 93301



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# Exhibit C



## Department of Homeland Security Office of Inspector General

The Department of Homeland Security Office of Inspector General is conducting a review of ICE's ability to manage the COVID-19 pandemic at its facilities. The purpose of these questions is to collect information about challenges and needs of facilities in responding to the coronavirus 2019 (COVID-19) pandemic, among facility staff and the detained population. Your responses to the questions below should reflect the numbers of staff and detainees, as well as the status and operations of the facility, on the day that you respond to the survey. You have been identified as the best resource at the facility to respond to the survey. To better understand the scope and possible growth of the pandemic, we may follow-up with a similar survey at a later date to collect updated information on the facility's status.

We request that you respond no later than **Wednesday, April 15th**. If we do not receive a response, we will contact you by phone to follow up. Completion of this survey is required, and we appreciate your assistance and willingness to provide the information, especially during this very busy time. In addition, if you have any questions about the survey, please e-mail [OIGCOVID19.ICESurvey@oig.dhs.gov](mailto:OIGCOVID19.ICESurvey@oig.dhs.gov). Thank you.

Name of facility

Mesa Verde ICE Processing Center

Your full name

Nathan Allen

Your title

Facility Administrator

Your e-mail address

[REDACTED]

Your phone number

[REDACTED]

### QUESTIONS ABOUT FACILITY STAFF

1. Total number of staff who **have been tested** for COVID-19:
2. Total number of staff who **have tested positive** for COVID-19:
3. Total number of staff who **are in precautionary self-quarantine**:
4. Total number of staff who **are unavailable to work** due to community mitigation measure (considered non-essential; absent for child care due to school closures, weather and safety leave, etc.):

### QUESTIONS ABOUT STAFF RESOURCES, SUPPLIES, AND GUIDANCE

5. Do you believe the facility has enough of the following protective equipment and supplies on hand for **all facility staff (including non-medical and medical)** to use if a COVID-19 outbreak occurs in the facility?

- a. Nitrile or latex gloves  Yes  No
- b. Standard surgical masks  Yes  No
- c. N95 respirators  Yes  No

d. Hand sanitizer  Yes  No

e. Face shields or goggles  Yes  No

f. Disinfectant cleaning agents  Yes  No

6. Have **all facility staff (including non-medical and medical staff)** been trained in the proper fitting, use, and disposal of the above protective equipment?  Yes  No

7. Has the facility received guidance from the following offices that addresses how to prevent, control and mitigate an outbreak of COVID-19 in the facility?

a. ICE Headquarters  Yes  No

b. ICE Health Service Corps (IHSC)  Yes  No

8. What are the facility's contingency staffing plans in the event the facility is not capable of providing adequate services and care to detainees during the COVID-19 pandemic?

Health Services: The contract medical provider has schedules and plans in place to meet detainee health care needs 24/7. Detainees who present issues beyond facility care or staffing compliment will be sent to local hospitals.  
Food Service: Additional staff members will be assigned to the food service department to ensure meals are delivered.  
Operations: Security rosters will be adjusted to cover all essential posts. Non-essential programs and services will be

**QUESTIONS ABOUT ICE DETAINEES AT FACILITY**

9. Total number of ICE detainees at facility:

10. Total number of ICE detainees who **have been tested** for COVID-19:

11. Total number of ICE detainees who **have tested positive** for COVID-19:

12. Total number of ICE detainees who **are in isolation** for suspected COVID-19 symptoms or exposure:

13. Total number of ICE detainees who **are being monitored** for suspected COVID-19 symptoms or exposure:

14. Total number of ICE detainees **released from the facility** for reasons (i.e., detainee is in a high risk group) related to COVID-19 pandemic:

15. Do you believe the facility has enough of the following resources to maintain proper hygiene and protection **among ICE detainees**?

a. Masks for detainees who exhibit COVID-19 symptoms or test positive for COVID-19:  Yes  No

b. Liquid soap for detainee use:  Yes  No

c. Hand sanitizer for detainee use:  Yes  No

16. How many ICE detainees can the facility hold in quarantine or isolation if a detainee **exhibits suspected COVID-19 symptoms**?

17. How many ICE detainees can the facility hold in quarantine or isolation if a detainee **tests positive for COVID 19**?

18. How many negative pressure rooms does the facility have?

---

**QUESTIONS ABOUT FACILITY'S MEDICAL PRACTICES**

19. Does the facility conduct risk assessments on ICE detainees to determine potential COVID-19 exposure?  Yes  No

20. What is the protocol, if any, to determine whether an ICE detainee should be tested for COVID-19?

Providers follow protocols set forth by the CDC, IHSC, and GEO. If a detainee with a history of exposure to a laboratory-confirmed case of COVID19 presents with or complains of fever and/or respiratory illness, the detainee is placed in isolation and a test will be administered. If the detainee has not had close contact, providers use judgment to determine if a patient has signs/symptoms of COVID19 and whether the patient should be isolated and tested.

a. If the facility has testing protocols in place, how many ICE detainees have met the testing protocols but have **not** been tested?

21. Does the facility have the capacity to test ICE detainees for COVID-19 on-site?  Yes  No

a. If yes, how many on-site COVID-19 testing kits does the facility have?

---

**OVERALL QUESTIONS**

22. Do you believe the facility is prepared to handle the COVID19 pandemic?  Yes  No

23. What are the major challenges, if any, facing the facility regarding the COVID-19 pandemic?

Additional hand sanitizer dispensers and refills are backordered; staff have been authorized to use personal-sized alcohol based hand sanitizer in the interim.

24. What other measures other than the ones described above has the facility taken to prepare for, prevent, control, and mitigate an outbreak of COVID-19 in the facility?

CDC guidelines "Stop the Spread" are posted in all detainee areas. All staff and visitors are screened with a signs and symptoms questionnaire and are temperature checked. All new detainees undergo a questionnaire and temperature check. Enhanced cleaning is being completed throughout the day. Social distancing is being conducted to the maximum extent.

25. Is there anything else you would like to tell us about the facility's handling of the COVID-19 pandemic?

The detainees have unfettered access to bar soap for personal use at all times. In addition, the facility has been under constant guidance from the GEO Groups' corporate and health services offices since the onset of the virus, as well as being in constant communication with the local ICE ERO and IHSC components in regards to oversight of COVID-19 updates and monitoring.

26. Date survey was completed

**After saving the completed survey, please attach it to an e-mail to [OIGCOVID19.ICESurvey@oig.dhs.gov](mailto:OIGCOVID19.ICESurvey@oig.dhs.gov)**

# Exhibit D



Message

---

**From:** Nathan Allen [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=95372494BFF540869C456E468F370223-NATHAN ALLE]  
**Sent:** 6/4/2020 1:21:42 PM  
**To:** Pham, Alexander [REDACTED]  
**Subject:** Plan  
**Attachments:** Mesa Verde COVID Testing 6.4.20 FA.docx

Hi Alex, just an FYI. I had to submit another plan based off of what you sent the other day; this is what was submitted. Seems like a lot, but it covers what your directives were, and some stuff regarding possible positive tests. The issue is going to be the same as last time regarding housing for multiple positives. Don't want you to get something coming down from your side about the plan without you knowing.

**Nathan (Nate) Allen**  
Facility Administrator, GEO Secure Services

**The GEO Group, Inc. ©**  
Mesa Verde ICE Processing Center  
425 Golden State Ave  
Bakersfield, CA 93301

Tel: [REDACTED] Mobile: [REDACTED]  
Fax: [REDACTED]

[REDACTED]  
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# Exhibit E

Message

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**From:** Paul Laird [REDACTED]  
**Sent:** 7/2/2020 10:30:49 AM  
**To:** Nathan Allen [REDACTED]; Cheryl Nelson [REDACTED]  
**Subject:** Re: Assistance with Cohorting Exposed Detainees

I assume they are going to Adelanto? Have you discussed it with James?

---

**From:** Nathan Allen [REDACTED]  
**Sent:** Thursday, July 2, 2020 10:23 AM  
**To:** Cheryl Nelson [REDACTED]  
**Cc:** Paul Laird <[REDACTED]>  
**Subject:** Fw: Assistance with Cohorting Exposed Detainees

Looks like we're dodging a bullet. Waiting on paperwork to come so we can get them ready. The only requirement per IHSC is notifying the receiving facility how many more days of the 14-day cohort they have remaining. We are also doing a paperwork drill to possibly move the detainees out of B dorm back into C & D while still trying to maintain the upper/lower bunk scheme (50 per dorm). This at the request of Alex and Janese.

---

**From:** Mull, Janese N [REDACTED]  
**Sent:** Thursday, July 2, 2020 10:08 AM  
**To:** Valdez, Gabriel A [REDACTED]  
**Cc:** Pham, Alexander [REDACTED]; Nathan Allen [REDACTED]; Lowes, Diane R [REDACTED]; Gonzalez, Nancy [REDACTED]  
**Subject:** [EXTERNAL] Assistance with Cohorting Exposed Detainees

AFOD Valdez,

Thank you very much for assisting ERO Bakersfield with housing and cohorting the following six (6) detainees exposed to another detainee who tested positive for COVID-19:

- 1 [REDACTED]
- 2 [REDACTED]
- 3 [REDACTED]
- 4 [REDACTED]
- 5 [REDACTED]
- 6 [REDACTED]

If there are any questions or concerns, please feel free to contact me.

Again, THANK YOU!

Janese Mull

Assistant Field Office Director

U.S. Department of Homeland Security (DHS) | Immigration and Customs Enforcement (ICE)

Enforcement and Removal Operations (ERO) | Bakersfield Sub Office

800 Truxtun Avenue | Bakersfield, CA 93301

Mobile: [REDACTED]

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# Exhibit F

Message

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**From:** Nathan Allen [REDACTED]  
**Sent:** 6/25/2020 9:57:46 AM  
**To:** Paul Laird [REDACTED] Cheryl Nelson [REDACTED]  
**Subject:** Re: Detainee Testing - New Intakes

Copy, will do.

---

**From:** Paul Laird [REDACTED]  
**Sent:** Thursday, June 25, 2020 9:56 AM  
**To:** Nathan Allen [REDACTED] Cheryl Nelson [REDACTED]  
**Subject:** Re: Detainee Testing - New Intakes

Nate: I think the plan is sufficient for your testing protocols moving forward. However, the plans falls short of identifying mitigating procedures you could put in place for detainees who do not consent to testing and are placed directly into a unit. We cannot just throw up our hands and say there isn't anything we can do. We should at a minimum identify specific areas within the unit for new arrivals. Maybe it is in a row of bunks in the fron, maybe in the back etc, but we can't just scatter them throughout the unit without any controls. Whether it be tape on the floor, privacy curtains, or any other strategy you can identify, it would be better than just saying we are unable to do anything. I know we have discussed this multiple times before, and it appears there has been no creative effort to come up with some mitigating strategies.

Please work with Cheryl and let's discuss your ideas tomorrow.

---

**From:** Nathan Allen [REDACTED]  
**Sent:** Thursday, June 25, 2020 9:37 AM  
**To:** Cheryl Nelson [REDACTED]  
**Cc:** Paul Laird [REDACTED]  
**Subject:** Detainee Testing - New Intakes

Hi Cheryl, IHSC was onsite conducted training with the HSA yesterday afternoon on the Abbott machine. The HSA needs to conduct some additional training with the nurses today. Currently, our new AFOD (Janese Mull) has indicated they will be looking to begin testing new intakes beginning Friday or Monday. This attached plan is the one we went over last week when we knew the machine was supposed to come. Alex reviewed it last week and was okay with it and I sent it over this morning to AFOD Mull for her review.

**Nathan (Nate) Allen**  
Facility Administrator, GEO Secure Services

**The GEO Group, Inc. ©**  
Mesa Verde ICE Processing Center  
425 Golden State Ave  
Bakersfield, CA 93301

Tel: [REDACTED] Mobile: [REDACTED]  
Fax: [REDACTED]

[REDACTED]  
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# Exhibit G



Message

**From:** Brooke Sanchez-Othon [REDACTED]  
**Sent:** 7/6/2020 9:22:05 AM  
**To:** Nathan Allen [REDACTED]; Mull, Janese N [REDACTED]  
**CC:** Wendy M. Baca [REDACTED]  
**Subject:** [EXTERNAL] Re: COVID-19 Testing of all Inmates Inquiry

We would use the oropharyngeal swabs and they would be sent for processing to cardiotropic labs.

Brooke Sanchez Othon, RN BSN CCHP  
Clinical Operations Specialist  
wellpath

PH [REDACTED]  
WellpathCare.com

---

**From:** Nathan Allen <[REDACTED]>  
**Sent:** Monday, July 6, 2020 9:17:06 AM  
**To:** Mull, Janese N; Brooke Sanchez-Othon  
**Cc:** Wendy M. Baca  
**Subject:** [EXT] Re: COVID-19 Testing of all Inmates Inquiry

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The testing would be by using the normal swap kits or with the Abbott?

---

**From:** Mull, Janese N <[REDACTED]>  
**Sent:** Monday, July 6, 2020 8:55 AM  
**To:** Brooke Sanchez-Othon <[REDACTED]>; Nathan Allen <[REDACTED]>  
**Cc:** Wendy M. Baca <[REDACTED]>  
**Subject:** [EXTERNAL] RE: COVID-19 Testing of all Inmates Inquiry

10-4!

Thank you!

*Janese Mull*  
Assistant Field Office Director  
U.S. Department of Homeland Security | Immigration and Customs Enforcement  
Enforcement and Removal Operations (ERO) | Bakersfield Sub Office  
800 Truxtun Avenue | Bakersfield, CA 93301  
Office: [REDACTED]  
Mobile: [REDACTED]

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---

**From:** Brooke Sanchez-Othon <[REDACTED]>

**Sent:** Monday, July 6, 2020 8:51 AM

**To:** Mull, Janese N <[REDACTED]>; Nathan Allen <[REDACTED]>

**Cc:** Wendy M. Baca <[REDACTED]>

**Subject:** Re: COVID-19 Testing of all Inmates Inquiry

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact ICE SOC SPAM with questions or concerns.

AFOD Mull,

Please see attached testing plan for all detainees. Please note this has already been sent up to ICE by AFOD Pham and denied due to the housing restrictions we face. Testing all detainees will potentially cause the same housing issue we had last week but on a larger scale. Completing the testing is not the issue it is just what we will need to do with the results once they are received. Please let us know if you need anything else.

Thank you!

Brooke Sanchez Othon, RN BSN CCHP  
Clinical Operations Specialist

wellpath

PH [REDACTED]  
[WellpathCare.com](http://WellpathCare.com)

---

**From:** Mull, Janese N <[REDACTED]>

**Sent:** Monday, July 6, 2020 8:26 AM

**To:** Nathan Allen

**Cc:** Wendy M. Baca; Brooke Sanchez-Othon

**Subject:** [EXT] COVID-19 Testing of all Inmates Inquiry

CAUTION: This Email is from an EXTERNAL source. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Morning Nathan,

We have been advised (by counsel) that it would be in our best interest to evaluate how long it would take (and why) to conduct COVID-19 testing for all detainees and detail how it would be done and what testing would be used.

If possible, can I please obtain this information by 12pm today. If that is not possible, please advise.

Thanking you in advance!

*Janese Mull*

**Assistant Field Office Director**

U.S. Department of Homeland Security | Immigration and Customs Enforcement  
Enforcement and Removal Operations (ERO) | Bakersfield Sub Office  
800 Truxtun Avenue | Bakersfield, CA 93301

Office: [REDACTED]

Mobile: [REDACTED]

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# Exhibit H

Message

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**Sent:** 5/26/2020 9:15:15 AM  
**To:** Cheryl Nelson [REDACTED]  
**Subject:** Staff testing

The AFOD mentioned during he would rather not have staff testing as that may also impact ERO functions, i.e., an asymptomatic person testing positive would require possible dorm cohorts and detainee testing protocols.

**Nathan (Nate) Allen**  
Facility Administrator, GEO Secure Services

**The GEO Group, Inc. ©**  
Mesa Verde ICE Processing Center  
425 Golden State Ave  
Bakersfield, CA 93301

Tel: [REDACTED] Mobile: [REDACTED]  
Fax: [REDACTED]

[REDACTED]  
[www.geogroup.com](http://www.geogroup.com)

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11  
12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA

14 ANGEL DE JESUS ZEPEDA RIVAS,  
15 BRENDA RUBI RUIZ TOVAR, LAWRENCE  
16 KURIA MWAURA, LUCIANO GONZALO  
17 MENDOZA JERONIMO, CORAIMA  
YARITZA SANCHEZ NUÑEZ, JAVIER  
ALFARO, DUNG TUAN DANG,

18 Petitioners-Plaintiffs,

19 v.

20 DAVID JENNINGS, Acting Director of the  
San Francisco Field Office of U.S. Immigration  
21 and Customs Enforcement; MATTHEW T.  
ALBENCE, Deputy Director and Senior  
22 Official Performing the Duties of the Director  
of the U.S. Immigration and Customs  
23 Enforcement; U.S. IMMIGRATION AND  
24 CUSTOMS ENFORCEMENT; GEO GROUP,  
INC.; NATHAN ALLEN, Warden of Mesa  
Verde Detention Facility,

25 Respondents-Defendants.  
26

Case No. 3:20-CV-02731-VC

**DECLARATION OF FRANCISCO M. UNGER  
IN SUPPORT OF PETITIONERS-PLAINTIFFS'  
MOTION FOR TEMPORARY RESTRAINING  
ORDER**

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1 I, Francisco M. Unger, declare as follows:

2 1. I am an associate with the law firm of Cooley LLP, co-counsel of record in the  
 3 above-captioned matter for named Plaintiffs and the provisional Class. I have knowledge of the  
 4 following, and if called as a witness, I could and would testify competently thereto.

5 2. Attached hereto are the following true and correct copies of the following documents  
 6 produced by defendant GEO Group, Inc. in response to a request for production of documents  
 7 served by Plaintiffs:

<u>Exhibit</u>	<u>Document Description</u>
A	Email from Nathan Allen to Cheryl Nelson and Paul Laird, dated June 4, 2020. (GEO_07064).
B	Email from Nathan Allen to Cheryl Nelson, dated July 1, 2020. (GEO_07202).
C	Department of Homeland Security survey, dated April 10, 2020. (GEO_00003).
D	Email from Nathan Allen to Alexander Pham, dated June 4, 2020. (GEO_01052).
E	Email from Nathan Allen to Paul Laird and Cheryl Nelson, dated July 2, 2020. (GEO_06391).
F	Email from Paul Laird to Nathan Allen, dated June 25, 2020. (GEO_08822).
G	Email from Brooke Sanchez-Othon to Janese Mull and Nathan Allen, dated July 6, 2020. (GEO_06238).
H	Email from Nathan Allen to Cheryl Nelson, dated May 26, 2020. (GEO_06450).

21 I declare under penalty of perjury under the laws of the United States that the foregoing is  
 22 true and correct.

23 Executed on August 3, 2020 in Cambridge, Massachusetts.

24 /s/ Francisco M. Unger  
 25 Francisco M. Unger

26  
 27  
 28