

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

ALFREDO CHAVEZ GARCIA,

Petitioner,

v.

Case No. 20-cv-00352-NJR

DAMON ACUFF, *et al.*,

Respondents.

DECLARATION OF WARDEN DAMON ACUFF

Pursuant to 28 U.S.C. § 1746, I, Damon Acuff, hereby declare under penalty of perjury that the following statements are true and correct to the best of my knowledge, information, and belief, at the time I executed this Declaration. This is an update to my Declaration dated April 16, 2020. That Declaration was provided to the Court in Case No. 20-cv-253-SMY (S.D. Ill.):

1. I am Warden of the Pulaski County Detention Center and have held this position since September 2012. In that capacity and pursuant to a contract with ICE/DHS, I have custody of all ICE detainees who are housed at the Detention Center.

2. The subject matter of this declaration involves my official duties as Warden. I provide this declaration based on my personal knowledge, reasonable inquiry, and information maintained and relied upon at the Pulaski County Detention Center in the regular course of business. Prior to executing this Declaration, I also consulted with medical staff at the Pulaski County Detention Center.

3. I provide this Declaration in response to the Emergency Habeas Petition and Complaint for Injunction filed by Petitioner Alfredo Chavez-Garcia.

Exhibit B

4. All new ICE detainees assigned to the Pulaski County Detention Center undergo a complete medical intake evaluation and screening by Licensed Practice Nurses and/or Registered Nurses for medical, mental health, and disability issues within 12 hours of their arrival. All identified disabilities are accommodated provided they are necessary and medically appropriate. Translation services are provided if needed. This procedure existed prior to the COVID-19 pandemic.

5. If a new detainee were processed today, the intake processes would identify individuals at high risk for having contracted COVID-19 and/or who present with symptoms consistent with having become infected with COVID-19 as identified by the Centers for Disease Control (“CDC”) and Illinois Department of Public Health (“IDPH”). There have, however, been no new detainees assigned to the Pulaski County Detention Center since April 2, 2020. There are currently 126 detainees housed at the facility.

6. Male and female ICE detainees are kept in separate housing units at the Pulaski County Detention Center. There are six housing units where ICE detainees may be housed. Individuals in county jail do not mix with ICE detainees. Petitioner has been housed in one of the all-male detainee housing units since arriving to the detention center on February 7, 2020.

7. Currently, all visitations and religious services at the facility are cancelled. Additionally, vendors’ temperatures are taken before entering the facility, and attorneys use teleconferencing to communicate with detained clients. The detention center instituted these measures at 8:00 a.m. on March 14, 2020. The Pulaski County Detention Center has been aware of COVID-19 and monitoring its facility for any evidence of the illness since in or around mid-March 2020.

8. With regard to testing for COVID-19, the Pulaski County Detention Center follows the testing criteria of the IDPH, as advised by the CDC. All detainees who meet the criteria for testing, have and/or will receive a test for COVID-19. Our facility is in contact with IDPH on a daily basis in order to receive and implement practices to combat the spread of COVID-19.

9. Prior to April 17, 2020, approximately 5 tests were made available daily to the facility. As Warden, I have made it my daily practice to drive completed tests to facilities that will process those tests and advise the facility of the results. On April 17, 2020, the facility received a package with 200 COVID-19 tests. Approximately 26 detainees and 17 staff members have been tested so far. As of April 19, 2020, 7 detainees and 6 staff members have tested positive for COVID-19.

10. As stated, there have been no new ICE detainees at the Pulaski County Detention Center since April 2, 2020. Three detainees who arrived at the Detention Center on April 1, 2020, complained of symptoms consistent with COVID-19 the following day. The 3 individuals had low grade fevers. These detainees were immediately tested for COVID-19 and placed in isolation. The facility later received information that these 3 individuals were positive for COVID-19. The 3 detainees have remained in isolation away from all other detainees since April 2, 2020. All three of the detainees are men. Petitioner was not in the same housing unit as these three individuals, and due to cohorting that is explained in more detail below, would not have had direct contact with any of them.

11. Late in the day on April 17, 2020, the facility received news that three additional male detainees have tested positive for COVID-19. Those individuals had been in medical isolation for approximately 4 days prior to receipt of the positive test results. At approximately 1:30 a.m. on April 19, 2020, the facility received information that an

additional detainee has tested positive for COVID-19. The detainee is a male. He had been in medical isolation for approximately 4 days prior to receipt of the positive test result.

12. If any detainee shows signs or symptoms of an illness, they are medically isolated and tested to determine if they have COVID-19 or any other communicable illness, such as the flu. Isolation has consisted of assigning an individual to a single cell in a portion of the facility that has been converted from a special housing unit to a medical isolation unit. The special housing unit consists of 8 cells, each with one bunk bed. Although the IDPH has advised two individuals with similar symptoms may be housed in the same cell, the preference is to house each medically-isolated detainee alone. So far, all detainees in medical isolation have been assigned to their own cell.

13. On or around April 17, 2020, the facility converted another one of its units into a medical isolation center. The new isolation unit is comprised of 12 cells, and each cell contains one bunk bed. The unit was thoroughly cleaned. Thereafter, detainees previously isolated in the special housing unit were relocated to the newly-cleaned unit. After this transfer, the special housing unit received a deep-clean should that area also be needed for medical isolation. The facility's medical isolation capacity was expanded solely as a precautionary measure and at the advice of the IDPH. The Pulaski County Detention Center now has 20 cells, each with a bunk bed, available for medical isolation.

14. All detainees in medical isolation are currently housed alone. The Pulaski County Detention Center continues to follow the guidance of the IDPH with respect to medical isolation. In the isolation units, the isolated detainees have and still eat alone, use the personal bathroom in their cell, and shower alone; showers are offered daily.

15. Detainees remain in isolation until the end of that detainee's specific illness. With regard to COVID-19, IDPH oversees the handling of those cases. IDPH calls the facility

every day for reports on positive cases, including for information about temperatures, signs and symptoms, observations by medical staff, etc. IDPH will tell the facility when it is safe for someone who has tested positive for COVID-19 to release to general population.

16. Isolation is the method the facility uses to completely separate positive cases or detainees suspicious for illness from detainees in the general population housing units. On March 16, 2020, to maintain the safety of detainees in the general population units, the facility also began “cohorting.” The Pulaski County Detention Center has 6 housing units: three, 50-person, all-male dormitory style units; an all-male unit with 12, two-person cells that was recently converted into a medical isolation unit; an all-female unit with 12, two-person cells; and a special unit with 8, two-person cells that has also been converted for medical isolation cases. Cohorting means each of these units is kept separate from the other for all purposes. The goal in keeping these units separate from one another is to ensure that, if a contagious illness arises in one of the units, detainees in the other units are not also exposed to potential sickness, whether that sickness is the flu, strep throat, or COVID-19.

17. As stated, 6 staff members have tested positive for COVID-19. Those staff members are all at home. The first staff member tested positive for COVID-19 on or around April 7, 2020.

18. Between approximately April 2 and 9, 2020, medical staff and detainees in medical isolation wore N-95 masks. On April 9, 2020, the facility received a shipment of N-95 masks. Every detainee and staff member has received an N-95 mask. Any time a detainee leaves his or her housing unit they are required to wear the mask. Any time staff go into a housing unit they are required to wear a mask.

19. All detainees’ temperatures are checked twice daily. Staff members’ temperatures are checked before every shift. Nobody enters the facility without having their

temperature checked, including staff. Anyone with a temperature above 100.4 is refused entry into the facility in accordance with IDPH and CDC guidelines. Any staff member with a temperature is also checked by medical staff. If the staff member has signs or symptoms meeting criteria for COVID-19 testing as prescribed by IDPH, they are tested and sent home immediately.

20. The facility runs a hygiene cart through each housing unit every day. Detainees receive soap every morning at no cost to the detainee.

21. The facility provides cleaning supplies daily in each housing unit. This practice was in place before COVID-19. The facility has increased the cleaning frequency of all areas as a result of COVID-19. This involves an ongoing, daily process that includes the cleaning of hard surfaces, door handles, push bars, floors, walls, etc.

22. The facility is making its own hand sanitizer pursuant to guidance provided by the IDPH. This hand sanitizer is available to detainees and staff.

23. Pamphlets in Spanish and English are located in every housing unit, providing information about COVID-19. *See Attachment 1 to Exhibit.* Medical staff also educate detainees regularly on precautions in order to avoid transmission of all communicable diseases. Furthermore, detainees have access to news/media in order to learn about the current effects and concerns involving the COVID-19 pandemic.

24. Each housing unit is provided with up to five phones and three video visitation systems. Telephones are sanitized as part of the facilities ongoing, daily cleaning processes.

25. The facility has eliminated use of a detained work force and made staff shift adjustments to minimize potential exposure, while maintaining all operational necessities.

26. Meals are served to each housing unit separately. Detainees are called by name to receive their meals. Staff attempt to conduct the meal times quickly in each housing unit and in a manner that provides for as much social distancing as possible.

27. The Detention Center has a medical unit with 2 negative pressure ventilation rooms to treat people with communicable diseases. This provides the facility with medical-isolation space in addition to the 20, two-person cells discussed previously. Two of the 3 original positive-detainee COVID-19 cases are isolated in the negative pressure ventilation rooms.

28. The facility's medical unit is staffed with RNs and LPNs. There are 7 medical staff at the Pulaski County Detention Center. The facility's physician is there 5 days per week, 4 hours per day. The physician completes sick call every morning. A mental health provider is at the facility 4 days per week, 4 hours per day. The facility has a physician on call 24/7.

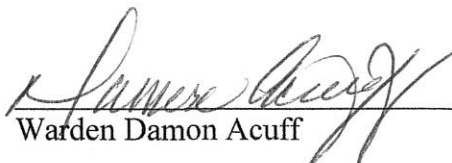
29. If a detainee became too sick for care by the Detention Facility's medical staff, the detainee would be taken to a local hospital. The preference is to take individuals to Carbondale Memorial Hospital for treatment under such circumstances.

30. Sick calls are run every day. Sick call slips are picked up 3 times per day. Anyone under medical isolation is visited by medical staff at the beginning of every shift; there are three, 8-hour shifts. Medical review of individuals in isolation is completed every day. Currently, 10 detainees are in medical isolation. This includes the 7 detainees who have tested positive for COVID-19. The facility is waiting for the IDPH to provide approval for the first 3 detainees who tested positive for COVID-19 to be safely released back into a general population unit.

31. As with all detainees, Petitioner has been educated on hand hygiene and disease process. Petitioner has not placed a sick call related to knee pain. Petitioner has been seen for a toe issue related to diabetes. Petitioner has diabetic shoes ordered, however, he has yet to be seen by a podiatrist in order to be fitted for the shoes. The podiatry clinic has cancelled all appointments (civilian and detainee) until further notice.

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

Executed on this 19th day of April, 2020


Warden Damon Acuff