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13
 14 **IN THE UNITED STATES DISTRICT COURT**
 15 **FOR THE DISTRICT OF ARIZONA**

16 Maria Guadalupe Lucero-Gonzalez, et al.,
 17
 18 Plaintiffs-Petitioners,
 19 v.
 20 Kris Kline, et al.,
 21 Defendants-Respondents.

NO. CV-20-00901-PHX-DJH (DMF)
**DEFENDANTS-RESPONDENTS’
 JOINT MOTION TO DISMISS**

22 Defendants-Respondents Kris Kline, Warden of the Central Arizona Florence
 23 Correctional Complex (“CAFCC”); David Gonzales; Donald W. Washington; and Michael
 24 Carvajal (“Defendants”), by and through their undersigned counsel, move to dismiss the
 25 Class-Action Complaint for Declaratory and Injunctive Relief and Petition for Writs of
 26 Habeas Corpus (Doc. 1) filed by Plaintiff-Petitioners (“Plaintiffs”) under Federal Rules of
 27
 28

1 Civil Procedure 12(b)(1) and 12(b)(6). This motion is supported by the following
2 memorandum of points and authorities.¹

3 **MEMORANDUM OF POINTS AND AUTHORITIES**

4 Plaintiffs commenced this action by filing a Class-Action Complaint for Declaratory
5 and Injunctive Relief and Petition for Writs of Habeas Corpus (“Complaint”). As an initial
6 matter, Plaintiff Lucero-Gonzalez’s claims should be dismissed under Rule 12(b)(1)
7 because she has been released from custody and therefore her challenge to the conditions at
8 CAFCC and request for release are moot. Plaintiff Romero-Lorenzo’s challenge to her
9 conditions of confinement under the Due Process Clause of the Fifth Amendment should
10 be dismissed because she has received a “formal adjudication of guilt,” and thus her rights
11 are derived from the Eighth Amendment, rather than the Fifth Amendment.

12 More generally, this action should also be dismissed under Rule 12(b)(1) insofar as
13 Plaintiffs seek release from custody pursuant to writs of habeas corpus because, as
14 explained below, their conditions-of-confinement claims fall well outside the core of habeas
15 corpus. Moreover, to the extent that Plaintiffs seek release as a remedy for the alleged
16 unconstitutional conditions at CAFCC, the Prison Litigation Reform Act (“PLRA”) bars
17 the Court from granting the relief they request. In addition, Plaintiffs’ conditions-of-
18 confinement claims should be dismissed under Rule 12(b)(6), as Plaintiffs have not pleaded
19 facts sufficient to state a claim under the Fifth or Eighth Amendments.

20 **RELEVANT BACKGROUND**

21 Plaintiffs are federal pretrial detainees and post-conviction prisoners at CAFCC.
22 (Doc. 1, ¶¶ 19-23.) The following summarizes each Plaintiff’s criminal proceedings:²

23 Maria Guadalupe Lucero-Gonzalez, Case No. 4:19-cr-03359-JGZ-BGM-1 (related
24 Case No. 2:19-cr-00426-JGZ-BGM-1). On August 7, 2020, the court entered a judgment
25 adjudicating Ms. Lucero-Gonzalez guilty and sentencing her to time served. *Id.* at ECF No.

26 _____
27 ¹ Undersigned counsels certify that they met and conferred with counsel for Plaintiffs on
the issues discussed herein on August 10, 2020.

28 ² The Court may take judicial notice of the factual and procedural posture of each criminal
case. *See Rosciano v. Sonchik*, 2002 WL 32166630, at *6 (D. Ariz. Sept. 9, 2002).

1 48. On that same day, the court entered a judgment in her related case, revoking her term of
2 supervised release and committing her to a term of custody of time served. Case No. 2:19-
3 cr-00426-JGZ-BGM-1, at ECF No. 48. She was released from CAFCC on August 8, 2020.
4 *See* Declaration of K. Kline, ¶ 136, attached hereto as **Exhibit A**.³

5 Claudia Romero-Lorenzo, Case No. 4:20-cr-00171-JGZ-EJM-1. She entered a guilty
6 plea to one count of illegal reentry, in violation of 8 U.S.C. §§ 1326(a), enhanced by 8
7 U.S.C. § 1326(b). On July 22, 2020, the court entered a judgment adjudicating Ms. Romero-
8 Lorenzo guilty and sentencing her to 10 months imprisonment. *Id.* at ECF No. 28.⁴

9 Tracy Ann Peuplie, Case No. 4:20-cr-00299-CKJ-DTF. She is charged with
10 conspiracy to possess with intent to distribute methamphetamine, 21 U.S.C. § 846;
11 possession and intent to distribute methamphetamine, §§ 841(a)(1) and (b)(1)(A)(viii);
12 importation of methamphetamine into the United States, §§ 952(a), 960(a)(1), and
13 960(b)(1)(H); and conspiracy to import methamphetamine into the United States, § 963.
14 Following a bond hearing, on January 28, 2020, the court ordered her detained, finding that
15 she presents a flight risk and danger to the public safety. *Id.* at ECF No. 22.

16 James Tyler Ciecierski, Case No. 4:19-cr-03122-RM-LAB-1. He is charged in a with
17 bank robbery by force or violence, 18 U.S.C. § 2113(a). On April 1, 2020, Magistrate Judge
18 D. Thomas Ferraro determined that Mr. Ciecierski violated the conditions of his pretrial
19 release and ordered him detained. The district court affirmed, finding that he presents a
20 flight risk and had not shown that release would mitigate the risk to his health posed by
21 COVID-19. *Id.* at ECF No. 37. On July 27, 2020, Magistrate Judge Ferraro denied Mr.
22 Ciecierski petition seeking review of his detention order. *Id.* at ECF No. 57.

23 Marvin Lee Enos, Case No. 4:19-cr-02041-JAS-DTF. He is charged with aggravated
24 sexual abuse, 18 U.S.C. §§ 2241(a)(1), 2246(2)(A), and 1153, and assault with intent to
25 commit aggravated sexual abuse, §§ 113(a)(1) and 1153. On April 30, 2020, the Honorable
26

27 ³ For purpose of this motion, Defendants submit the Declaration of Warden Kline to the
28 extent that it relates to Plaintiff Lucero-Gonzalez's release from CAFCC.

⁴ A copy of the judgment entered in Ms. Romero-Lorenzo's case is attached as **Exhibit B**.

1 Judge Soto denied his motion for reconsideration of detention in light of COVID-19 *Id.* at
2 ECF No. 67. Mr. Enos filed an interlocutory appeal; the Ninth Circuit affirmed the district
3 court's detention order, C.A. No. 20-10160, at ECF No. 11.

4 Plaintiffs commenced this action, on behalf of themselves and a putative class,
5 seeking "a declaratory judgment, injunctive relief, and writs of habeas corpus" under 28
6 U.S.C. § 2241, to remedy alleged violations of their "rights under the Fifth and Eighth
7 Amendments." (Doc. 1, ¶¶ 10, 11, 15.) Plaintiff Lucero-Gonzalez seeks to represent herself
8 and a putative class of all current and future persons in post-conviction detention at CAFCC
9 ("Post-Conviction Class"); Plaintiffs Romero-Lorenzo, Peuplie, Ciecierski, and Enos seek
10 to represent themselves and a putative class of all current and future persons in pretrial
11 detention at CAFCC ("Pretrial Class"). (Doc. 1, ¶¶ 69-71.)

12 The Complaint includes two claims. In their first claim, the pretrial Plaintiffs allege
13 that Defendants have subjected them and the putative Pretrial Class members to conditions
14 of confinement that violate the Due Process Clause of the Fifth Amendment. (Doc. 1, ¶¶
15 80-91.) In claim two, Plaintiff Lucero-Gonzalez alleges that Defendants subjected her and
16 the putative Post-Conviction Class members to conditions of confinement that violate the
17 Eighth Amendment's proscription on "cruel and unusual punishments." (Doc. 1, ¶¶ 93-
18 103.) Plaintiffs' "claims arise from the same policies, practices, and procedures (or lack
19 thereof) that provide the basis for the proposed class members' claims." (Doc. 1, ¶ 21). In
20 other words, as this Court noted, "Plaintiffs' claims are ... directed at the policies
21 Defendants established in response to the ongoing COVID-19 pandemic." (Doc. 45 at 3.)

22 Plaintiffs allege that the pods at CAFCC contain either 40 or 80 detainees. (*Id.*, ¶ 46.)
23 Individual cells house from two to 14 detainees, who share a single toilet and sink. (*Id.*, ¶
24 47.) Defendants place arriving detainees in quarantine for a period of 14 days, but
25 "[s]ometimes" a detainee is removed from quarantine "by mistake" before the end of the
26 14-day period. (*Id.*, ¶ 49.) Detainees "frequently stand close together in lines when waiting
27 for food at mealtime, for medical appointments," and "for the communal telephones." (*Id.*,
28 ¶ 50.) Defendants provided detainees with masks in mid-April but "Plaintiffs ha[d] received

1 only one or two masks” as of the filing of this action. (*Id.*, ¶¶ 51, 54.) Since approximately
2 April 30, 2020, Defendants have required Plaintiffs to wear masks when outside of their
3 pods but not when inside their pods or cells. (*Id.*, ¶ 53.) Defendants have also required staff
4 to wear masks but “many are still not consistently wearing masks or gloves.” (*Id.*) Plaintiffs
5 receive a small amount of soap and shampoo once a week and must purchase additional
6 soap from the commissary, should they run out before the next allotment. (*Id.*, ¶ 55.)
7 Housing units and cells are not “adequately and consistently” cleaned (*id.*, ¶ 56), with Ms.
8 Peuplie reporting that “showers are cleaned twice a day” and “pods are cleaned once or
9 maybe twice a day” (Doc. 1-7, ¶ 5), and Ms. Lucero-Gonzalez reporting that she “receive[s]
10 cleaning supplies” to clean her cell “twice a day” (Doc. 1-5, ¶ 14). “Only a handful of people
11 at [CAFCC] have been tested for COVID-19 or checked for symptoms,” and Defendants
12 have not provided Plaintiffs with information about COVID-19, although Ms. Peuplie “has
13 seen a few signs posted about COVID-19” at CAFCC. (Doc. 1, ¶¶ 59-60; Doc. 1-7, ¶ 11.)

14 Plaintiffs contend that the “conditions and policies at [CAFCC] expose [them] to
15 unreasonable risk of contracting COVID-19” and that Defendants “must respond” to the
16 “risks posed by the COVID-19 outbreak by following [Centers for Disease Control and
17 Prevention (“CDC”)] and other public health guidelines.” (Doc. 1, ¶¶ 44-45.) They ask the
18 Court to enter an injunction to “ensure” that all detainees can “practice social (or physical)
19 distancing at all times” and “practice adequate” hygiene; “frequently touched surfaces” are
20 cleaned “with disinfectant products effective against” COVID-19; every detainee has access
21 to “adequate” personal protective equipment; every detainee “exposed to COVID-19” is
22 quarantined in a non-punitive setting and tested; Defendants “implement testing
23 procedures” consistent with CDC and public health guidance; and that the Court order the
24 “release” of Plaintiffs pursuant to “writs of habeas corpus.” (*Id.*, Prayer for Relief.)

25 LEGAL STANDARDS

26 A Rule 12(b)(1) motion challenges the federal court’s jurisdiction over the subject
27 matter of the complaint. Plaintiffs bear the burden of establishing that subject matter
28 jurisdiction exists. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994).

1 A Rule 12(b)(1) motion will be granted when, looking at the entirety of the complaint, its
2 allegations fail to establish jurisdiction either facially or factually. *Safe Air for Everyone v.*
3 *Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004).

4 Under Rule 12(b)(6), a plaintiff's complaint must allege "enough facts to state a
5 claim for relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570
6 (2007). A plaintiff must allege facts that add up to "more than a sheer possibility that a
7 defendant has acted unlawfully." *Ashcroft v. Iqbal*, 556 U.S. 662, 678–79 (2009). The court
8 accepts as true all well-pleaded facts in the complaint, but is not required to accept
9 "allegations that are merely conclusory, unwarranted deductions of fact, or unreasonable
10 inferences." *In re Gilead Sci. Sec. Litig.*, 536 F.3d 1049, 1055 (9th Cir. 2008). Nor is the
11 court required to "accept as true allegations contradicting documents that are referenced in
12 the complaint or that are properly subject to judicial notice." *Lazy Y Ranch Ltd. v. Behrens*,
13 546 F.3d 580, 588 (9th Cir. 2008). Moreover, the court may consider "documents attached
14 to the complaint, documents incorporated by reference in the complaint, or matters of
15 judicial notice" without "converting [a Rule 12(b)(6)] motion to dismiss into a motion for
16 summary judgment." *United States v. Ritchie*, 342 F.3d 903, 907-08 (9th Cir. 2003).

17 ARGUMENT

18 I. PLAINTIFF LUCERO-GONZALEZ'S CLAIMS ARE MOOT

19 Article III restricts federal court jurisdiction to actual "[c]ases" and
20 "[c]ontroversies." U.S. Const., art. III, § 2. "One element of the case-or-controversy
21 requirement is that plaintiffs must establish that they have standing to sue." *Clapper v.*
22 *Amnesty Int'l USA*, 568 U.S. 398, 408 (2013) (internal quotations omitted). The standing
23 doctrine demands that a plaintiff have "a personal stake in the outcome of the controversy
24 [so] as to warrant his invocation of federal-court jurisdiction." *Warth v. Seldin*, 422 U.S.
25 490, 498 (1975) (internal quotations omitted). Plaintiff Lucero-Gonzalez challenges the
26 conditions of her confinement under the Eighth Amendment, seeking prospective injunctive
27 relief and release pursuant to a writ of habeas corpus. Because she has been released from
28 CAFCC (*see* Ex. A, ¶ 163), her Eighth Amendment challenge to conditions at CAFCC and

1 petition for writ of habeas corpus are therefore moot. *See Munoz v. Rowland*, 104 F.3d 1096,
2 1097–98 (9th Cir.1997) (“Because Munoz has been released from the SHU,” his
3 “challenges to the ... conditions of confinement in the SHU are therefore moot[.]”);
4 *Johnson v. Moore*, 948 F.3d 517, 519 (9th Cir. 1991) (where prisoner is released his or her
5 claim for injunctive relief concerning conditions of confinement is moot).

6 **II. PLAINTIFF ROMERO-LORENZO HAS NO FIFTH AMENDMENT CLAIM**

7 Plaintiff Romero-Lorenzo is “awaiting sentencing” and seeks to represent a class of
8 persons detained at CAFCC “pending trial.” (Doc. 1, ¶¶ 20, 70.) A pretrial detainee’s
9 constitutional rights derive from the Due Process Clause of the Fifth Amendment, rather
10 than the Eighth Amendment. *Kingsley v. Hendrickson*, 576 U.S. 389, 400 (2015). Plaintiff
11 Romero-Lorenzo’s claims, as currently pleaded, challenge the conditions of her
12 confinement under Fifth Amendment. (Doc. 1, ¶¶ 70, 80-92.) A judgment and commitment
13 of guilt has now been issued in her criminal case (*see* Ex. B), thus, she has received a
14 “formal adjudication of guilt” and her rights must be found in the Eighth Amendment. *City*
15 *of Revere v. Mass. Gen. Hosp.*, 463 U.S. 239, 244 (1983). Since Plaintiff Romero-Lorenzo’s
16 constitutional rights are derived from the Eighth Amendment, rather than the Fifth
17 Amendment, her claims as currently pleaded should be dismissed.

18 **III. THE COURT LACKS JURISDICTION OVER PLAINTIFFS’ PETITION FOR WRITS OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**

19 Plaintiffs seek an order providing for the “release” of detainees pursuant to “writs of
20 habeas corpus under 28 U.S.C. § 2241.” (Doc. 1, ¶¶ 10-11, 15, Prayer for Relief.) Plaintiffs’
21 petition for writs of habeas corpus should be dismissed under Rule 12(b)(1) because their
22 conditions-of-confinement claims fall well outside the core of habeas corpus and are not
23 cognizable under 28 U.S.C. § 2241. The Supreme Court has repeatedly drawn a line
24 between “two broad categories of prisoner petitions: (1) those challenging the fact or
25 duration of confinement itself; and (2) those challenging the conditions of confinement.”
26 *McCarthy v. Bronson*, 500 U.S. 136, 140 (1991). Challenges to the fact or duration of
27 confinement are those in which the prisoners’ success would “necessarily imply the
28 invalidity of their convictions or sentences.” *Wilkinson v. Dotson*, 544 U.S. 74, 82 (2005).

1 “[W]here an inmate seeks injunctive relief challenging the fact of his conviction or the
2 duration of his sentence,” his claim “fall[s] within the ‘core’ of federal habeas.” *Nelson v.*
3 *Campbell*, 541 U.S. 637, 643 (2004). “By contrast, constitutional claims that merely
4 challenge the conditions of a prisoner’s confinement, whether the inmate seeks monetary
5 or injunctive relief, fall outside of that core.” *Id.*

6 The Ninth Circuit also recognizes this distinction: “Habeas corpus proceedings are
7 the proper mechanism for a prisoner to challenge the ‘legality or duration’ of confinement.
8 A civil rights action, in contrast, is the proper method of challenging ‘conditions of
9 confinement.’” *Badea v. Cox*, 931 F.2d 573, 574 (9th Cir. 1991) (citations omitted);
10 *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979) (“[T]he writ of habeas corpus is limited
11 to attacks upon the legality or duration of confinement.”).⁵ In *Nettles v. Grounds*, 830 F.3d
12 922 (9th Cir. 2016) (en banc), the Ninth Circuit emphasized this distinction, holding that a
13 prisoner’s claim which “does not lie at the core of habeas corpus ... may not be brought in
14 habeas corpus” but instead “must be brought, if at all, under § 1983.” *Id.* at 931, 933
15 (internal quotations and citations omitted). To be sure, *Nettles* involved a state prisoner and
16 the court declined to address whether its holding would extend to federal prisoners, but its
17 reasoning applies with equal force to such prisoners, who may challenge their conditions of
18 confinement through a federal civil rights action (as Plaintiffs do here) instead of pursuant
19 to § 1983. *Id.* at 931 n.6; *see also Chester v. Carr*, 2018 WL 5862823, at *8 (C.D. Cal. July
20 10, 2018) (“District courts have also applied the reasoning of *Nettles* to habeas petitions
21 brought by federal prisoners.”).⁶ Moreover, a recent majority of district courts within this

22 ⁵ *See also, e.g., Shook v. Apker*, 472 F. App’x 702, 702-03 (9th Cir. 2012) (“Shook’s claims
23 [of inadequate medical care] concern the conditions of his confinement and are properly
24 brought under *Bivens*” rather § 2241); *Alcala v. Rios*, 434 F. App’x 668, 669-70 (9th Cir.
2011) (“Alcala’s claims are not cognizable under 28 U.S.C. § 2241[.] ... [T]he petition
challenges the conditions of confinement and therefore should have been brought as a civil
rights action.”); *Greenhill v. Lappin*, 376 F. App’x 757, 757 (9th Cir. 2010).

25 ⁶ Notably, the Third, Fourth, Seventh, Eighth, and Tenth Circuits have held that suits
26 challenging conditions of confinement are not cognizable in habeas. *See, e.g., Spencer v.*
27 *Haynes*, 774 F.3d 467, 469-470 (8th Cir. 2014); *Braddy v. Wilson*, 580 Fed. Appx. 172, 173
28 (4th Cir. 2014); *Cardona v. Bledsoe*, 681 F.3d 533, 535-537 (3d Cir.), *cert. denied*, 568
U.S. 1077 (2012); *Palma-Salazar v. Davis*, 677 F.3d 1031, 1035-1038 (10th Cir. 2012);
Glaus v. Anderson, 408 F.3d 382, 388 (7th Cir. 2005). By contrast, the D.C., Second, and
Sixth Circuits have permitted petitioners to bring conditions of confinement claims under
section 2241. *Wilson v. Williams*, 961 F.3d 829, 839 (6th Cir. 2020); *Aamer v. Obama*, 742

1 circuit appear to hold that challenges to prison conditions based on COVID-19 are not
2 cognizable in a habeas action under § 2241. *See, e.g., Wilson v. Ponce*, 2020 WL 3053375,
3 at *10 (C.D. Cal. June 8, 2020); *Smith v. Blanckensee*, 2020 WL 4370954, at *3 (C.D. Cal.
4 July 2, 2020), *report and rec. adopted*, 2020 WL 4368060 (C.D. Cal. July 30, 2020); *Ibarra-*
5 *Perez v. Howard*, 2020 WL 3440298, at *10 (D. Ariz. June 23, 2020); *Hunter v. Martinez*,
6 2020 WL 3258398, at *4 (C.D. Cal. June 12, 2020); *Alvarez v. Larose*, 2020 WL 2315807,
7 at *3 (S.D. Cal. May 9, 2020); *Bolden v. Ponce*, 2020 WL 2097751, at *2 (C.D. Cal. May
8 1, 2020); *Merino v. Figueroa, et al.*, 20-CV-00600-PHX-JJT, ECF No. 7 at 5 (D. Ariz. Apr.
9 3, 2020). *But see, e.g., Torres v. Milusnic*, 2020 WL 4197285, at *7 (C.D. Cal. July 14,
10 2020); *Urdaneta v. Keeton*, 2020 WL 2319980, at *6 (D. Ariz. May 11, 2020).

11 Here, Plaintiffs’ claims cannot be characterized as anything but a challenge to their
12 conditions of confinement. Plaintiffs assert that they “bring this putative class action,
13 seeking constitutionally adequate conditions of confinement.” (Doc. 1, ¶ 10.) They seek a
14 declaratory judgment that “the current conditions of confinement at [CAFCC]” violate the
15 Fifth and Eighth Amendments. (Doc. 1, ¶ 15.) And their claims for relief are captioned
16 “Unconstitutional conditions of confinement in violation of the Due Process Clause of the
17 Fifth Amendment” and “Unconstitutional conditions of confinement in violation of the
18 Eighth Amendment.” (Doc. 1, pp. 22, 23.) At no point do Plaintiffs challenge the reason for
19 their confinement, the validity of their conviction or charge, or the length of their
20 sentence—i.e., the type of claims that the Supreme Court has characterized as “the core of
21 habeas corpus.” *Preiser v. Rodriguez*, 411 U.S. 475, 487 (1973); *Alvarez*, 2020 WL
22 2315807 at *3; *Hallinan v. Scarantino*, 2020 WL 3105094, at *11 (E.D.N.C. June 11,
23 2020); *Wragg v. Ortiz*, 2020 WL 2745247, at *18 (D.N.J. May 27, 2020). Rather, as the
24 substance of the Complaint makes clear, their claims are based exclusively on the conditions
25 inside CAFCC. “In other words, unlike a claim concerning the fact of confinement,
26 Plaintiffs’ claims would not exist *but for* their current conditions of confinement at
27 [CAFCC].” *Alvarez*, 2020 WL 2315807 at *3. Plaintiffs’ action must be construed for what
28

F.3d 1023, 1038 (D.C. Cir. 2014); *Thompson v. Choinski*, 525 F.3d 205, 209 (2d Cir. 2008).

1 confinement at CAFCC. Accordingly, their claims fall outside of the core of habeas corpus
2 and their petition for writs of habeas corpus must be dismissed for lack of jurisdiction.

3 **III. THE PLRA PREVENTS THE COURT FROM GRANTING PLAINTIFFS’**
4 **REQUEST FOR THE RELEASE OF DETAINEES FROM CAFCC**

5 Plaintiffs’ request for release should also be dismissed under the PLRA, which
6 precludes this Court from releasing detainees from CAFCC. Congress enacted the PLRA to
7 “revive the hands-off doctrine” and remove the federal judiciary from day-to-day prison
8 management. *Gilmore v. California*, 220 F.3d 987, 991, 996-97 (9th Cir. 2000). The PLRA
9 “restrict[s] the equity jurisdiction of federal courts,” *id.* at 999, and “the circumstances in
10 which a court may enter an order ‘that has the purpose or effect of reducing or limiting the
11 prison population,’” *Brown v. Plata*, 563 U.S. 493, 511 (2011). Because “[t]he release of
12 prisoners . . . is a matter of undoubted, grave concern,” the PLRA “ensure[s] that the ‘last
13 remedy’ of a population limit is not imposed ‘as a first step.’” *Id.* at 501, 514.

14 To that end, the PLRA places strict limits on a district court’s ability to order the
15 release of inmates “in any civil action with respect to prison conditions,” and precludes a
16 single district court judge from doing so. 18 U.S.C. § 3626(a)(3)(A)-(B). The law applies
17 to “any civil proceeding arising under Federal law with respect to the conditions of
18 confinement or the effects of actions by government officials on the lives of persons
19 confined in prison, but does not include habeas corpus proceedings challenging the fact or
20 duration of confinement in prison.” *Id.* § 3626(g)(2). In such a suit, the court “may enter a
21 temporary restraining order or an order for preliminary injunctive relief,” but such relief
22 “must be narrowly drawn, extend no further than necessary to correct the harm,” and “be
23 the least intrusive means necessary to correct that harm.” *Id.* § 3626(a)(2). A “prisoner
24 release order,” which “includes any order . . . that has the purpose or effect of reducing or
25 limiting the prison population” or “directs the release from or nonadmission of prisoners to
26 a prison,” § 3626(g)(4), may “be entered only by a three-judge court,” § 3623(a)(3)(B).

27 Insofar as Plaintiffs seek release as a remedy for the alleged unconstitutional
28 conditions at CAFCC—either for themselves or for the putative class members—the PLRA
prevents this Court from granting that relief. Under § 3626(a)(3)(B), “[t]he authority to
order release of prisoners as a remedy to cure a systemic violation of the Eighth Amendment

1 is a power reserved to a three-judge district court, not a single-judge district court.” *Plata*,
2 563 U.S. at 500; 18 U.S.C. § 3626(a)(3)(B). Such an order may not be entered unless “(i) a
3 court has previously entered an order for less intrusive relief that has failed to remedy the
4 deprivation ... and (ii) the defendant has had a reasonable amount of time to comply with
5 the previous court orders.” *Id.* § 3626(a)(3)(A). Even then, a three-judge court may order
6 prisoners released only upon “clear and convincing evidence” that “crowding is the primary
7 cause of the violation” and “no other relief will remedy [it.]” *Id.* § 3626(a)(3)(E)(i)-(ii).

8 As discussed above, there can be no dispute that the instant lawsuit is a “civil action
9 with respect to prison conditions” governed by § 3626, which defines “civil action with
10 respect to prison conditions” broadly to mean “any civil proceeding arising under Federal
11 law with respect to the conditions of confinement or the effects of actions by government
12 officials on the lives of persons confined in prison.” 18 U.S.C. § 3626(g)(2). *See, e.g.,*
13 *Alvarez*, 2020 WL 2315807, at *3-4 (holding “the PLRA applies to Plaintiffs’ claims and
14 divests the Court of authority to grant” their “release” in identical case); *Money v. Pritzker*,
15 2020 WL 1820660, at *10-14 (N.D. Ill. Apr. 10, 2020) (same). In turn, the PLRA precludes
16 the Court from releasing detainees from CAFCC as requested by Plaintiffs. *Id.* §
17 3626(a)(3)(B). As “[t]he release of prisoners ... is a matter of undoubted, grave concern,”
18 *Plata*, 563 U.S. at 501, the Court should dismiss Plaintiffs’ action insofar as it seeks the
19 release of detainees because (i) such relief is precluded by the PLRA and (ii) disposing of
20 this matter now would significantly narrow the issues should this case move forward.

21 **IV. PLAINTIFFS FAILS TO STATE AN EIGHTH AMENDMENT CLAIM**

22 Plaintiff Lucero-Gonzalez claims that policies, practices, and procedures that
23 Defendants have implemented at CAFCC violate the Eighth Amendment. (Doc. 1, ¶¶ 71,
24 76, 93-103.) In addition to her claim being moot, as discussed above, the Court should
25 dismiss her Eighth Amendment claim because the Complaint does not include any facts
26 *whatsoever* showing that Defendants, through any policy, practice, or custom implemented
27 at CAFCC, have acted with subjective deliberate indifference. To state an Eighth
28 Amendment conditions-of-confinement claim, plaintiffs must allege facts plausibly
showing that prison officials acted with “deliberate indifference to inmate health or safety.”

1 *Farmer v. Brennan*, 511 U.S. 825, 834 (1994). To act with deliberate indifference, “the
2 official must both be aware of facts from which the inference could be drawn that a
3 substantial risk of serious harm exists, and he must also draw the inference.” *Id.* at 837. This
4 “is a high legal standard.” *Toguchi v. Chung*, 391 F.3d 1051, 1060 (9th Cir. 2004). It
5 requires more than negligence or lack of ordinary due care. *Farmer*, 511 U.S. at 835.
6 “[E]ven gross negligence” will “not suffice.” *Wood v. Housewright*, 900 F.2d 1332, 1334
7 (9th Cir. 1990). “A difference of opinion,” *Sanchez v. Vild*, 891 F.2d 240, 242 (9th Cir.
8 1989), or “mere delay” in medical care, without more, is also insufficient, *Shapley v. Nev.*
9 *Bd. of State Prison Comm’rs*, 766 F.2d 404, 407 (9th Cir. 1985).

10 The Complaint as pleaded does not satisfy this high standard. As an initial matter,
11 Plaintiffs acknowledge that detainees are quarantined for 14 days upon admission to
12 CAFCC (Doc.1, ¶ 49); Defendants have provided detainees with masks (*id.*, ¶¶ 51, 54);
13 Defendants require detainees to wear masks when outside of their pods (*id.*, ¶ 53);
14 Defendants require staff to wear masks (*id.*); and Defendants have enacted various policies
15 at CAFCC in response to COVID-19 (*id.*, ¶ 61.) As reflected in the materials that Plaintiffs
16 cite in their Complaint, Defendants have implemented an array of policies to protect
17 detainees from the risks posed by COVID-19. Among other things, Defendants screen all
18 employees upon entry; require staff conducting entry screenings to wear appropriate
19 personal protective equipment (“PPE”); have adopted policies consistent with CDC
20 recommendations on sanitation, including cleaning and disinfecting frequently touched
21 surfaces with EPA-registered disinfectants effective against COVID-19; have adopted
22 policies consistent with CDC recommendations on PPE; and have routinely encouraged
23 staff and detainees to practice social distancing, including at regular town hall meetings and
24 through materials posted in the facility.⁷ Defendants have suspended visitation, purchased
25 COVID-19 testing kits, secured additional stores of PPE, communicated best practices for
26

27 ⁷ See CoreCivic, Inc., *CoreCivic Statement on COVID-19 Prevention*, available at
28 <https://www.corecivic.com/en/corecivic-statement-on-covid-19-prevention>, which is cited
in the Complaint (Doc. 1) at page 17, footnote 98, and attached as **Exhibit C**.

1 personal hygiene, and taken measures to ensure that detainees have access to medical care.⁸
2 Defendants have made soap and hygiene materials readily available; adopted increased
3 sanitation practices; educated staff and detainees on prevention measures recommended by
4 the CDC; and implemented processes to detect and track COVID-19, collect, analyze and
5 report data on individuals exhibiting signs of the virus, and segregate infected individuals.⁹

6 Plaintiffs acknowledge that Defendants aggressively implemented an array of health
7 and safety measures in response to COVID-19, but allege that these efforts are “inadequate
8 to stop the virus from spreading.” (Doc. 1, ¶ 61.) A bare allegation that prison officials have
9 taken “inadequate measures” does not suffice to show deliberate indifference because, as
10 explained in *Valentine v. Collier*, such an allegation (even if true) says *nothing* about the
11 officials’ state of mind. 956 F.3d 797, 802 (5th Cir. 2020). Rather, to allege deliberate
12 indifference, Plaintiffs must plead facts showing that Defendants “subjectively believe the
13 measures they are taking are inadequate.” *Id.* Plaintiffs allege no such facts here.

14 Inasmuch as Plaintiffs report instances of alleged noncompliance with the policies
15 Defendants have implemented, such as inadequate cleaning of their pods, infrequent
16 sanitation of high-touch surfaces, insufficient soap, detainees themselves not maintaining
17 social distance, or officers not “consistently” wearing masks, these allegation “at most show
18 that [D]efendants’ response was imperfect,” which “is not enough to establish deliberate
19 indifference.” *Cameron v. Bouchard*, 2020 WL 3867393, at *6 & n.3 (6th Cir. July 9, 2020);
20 *Valentine*, 956 F.3d at 802 (explaining the subjective deliberate indifference standard does
21 not look to “whether or how [a prison’s] policy is being administered”). Similarly,
22 allegations that detainees cannot practice social distancing at all times or that social
23 distancing policies are not uniformly enforced cannot alone establish deliberate
24 indifference. *Swain v. Junior*, 961 F.3d 1276, 1287, 1290 (11th Cir. 2020). Nor can a

25 ⁸ See CoreCivic, Inc., *How CoreCivic is Managing COVID-19*, available at
26 <https://www.corecivic.com/hubfs/files/CoreCivic%20Response%20to%20COVID-1.pdf>,
cited in the Complaint (Doc. 1) at page 17, footnote 98, and attached as **Exhibit D**.

27 ⁹ See CoreCivic Inc., *Frequently Asked Questions Regarding COVID-19*, available at
28 <https://www.corecivic.com/hubfs/files/FAQ%20Regarding%20COVID.pdf>, cited in the
Complaint (Doc. 1) on page 17, at footnote 98, and attached as **Exhibit E**.

1 “general awareness of the dangers posed by COVID-19” suffice to show deliberate
2 indifference. *Valentine*, 956 F.3d at 802. However, aside from stating legal conclusions,
3 that’s all Plaintiffs seem to allege here. (Doc. 1, ¶ 101.)

4 At bottom, Plaintiffs have not stated any facts *whatsoever* that show Defendants
5 implemented a policy, practice, or custom at CAFCC which they “subjectively believe[d]”
6 to be “inadequate,” *Valentine*, 956 F.3d at 802, or “failed to take *any steps* to address [a
7 known] risk,” *Wilson v. Williams*, 961 F.3d 829, 843 (6th Cir. 2020) (emphasis added).
8 Indeed, “the very fact that Defendants have enacted such policies supports that they have
9 not been subjectively indifferent.” Doc. 29 at 14-15.

10 **V. PLAINTIFFS FAIL TO STATE A FIFTH AMENDMENT CLAIM**

11 The Court should dismiss the pretrial Plaintiffs’ Fifth Amendment claim under Rule
12 12(b)(6) because they have not alleged facts sufficient to show that Defendants, through a
13 policy, practice, or custom they implemented at CAFCC, have recklessly disregarded the
14 Plaintiffs’ health or safety or that their detention constitutes punishment.

15 **A. Defendants Have Not Disregarded The Health Or Safety Of Detainees.**

16 Plaintiffs allege that Defendants “have violated the Pretrial Class’s rights under the
17 Due Process Clause of the Fifth Amendment” by “failing to provide for [their] reasonable
18 safety” and “adequate medical care.” (Doc. 1, ¶ 82.) Under the so-called “special
19 relationship” doctrine, when the State takes a person into its custody, the Due Process
20 Clause of the Fifth Amendment requires the government to provide for his or her “basic
21 human needs—*e.g.*, food, clothing, shelter, medical care, and reasonable safety.” *DeShaney*
22 *v. Winnebago Cty. Dep’t of Soc. Servs.*, 489 U.S. 189, 200 (1989). To state a claim under
23 the special relationship doctrine, a pretrial detainee must allege facts that show:

- 24 (i) the defendant made an intentional decision with respect to the conditions
25 under which the plaintiff was confined; (ii) those conditions put the plaintiff at
26 substantial risk of suffering serious harm; (iii) the defendant did not take
27 reasonable available measures to abate that risk, even though a reasonable
28 official in the circumstances would have appreciated the high degree of risk
involved—making the consequences of the defendant’s conduct obvious; and
(iv) by not taking such measures, the defendant caused the plaintiff’s injuries.

1 *Gordon v. County of Orange*, 888 F.3d 1118, 1125 (9th Cir. 2018); Doc. 29 at 15-16. The
2 third element incorporates an “objective deliberate indifference standard.” *Id.* This element
3 requires a plaintiff to show “more than negligence but less than subjective intent—
4 something akin to reckless disregard.” *Id.* (internal quotations and citation omitted); *Castro*
5 *v. County of Los Angeles*, 833 F.3d 1060, 1068-71 (9th Cir. 2016). In other words, Plaintiffs’
6 due process claim requires them to show more than that Defendants acted unreasonably.

7 As discussed above, the Complaint alleges facts or incorporates materials evidencing
8 that Defendants have adopted an array of policies in response to COVID-19, including
9 quarantining new arrivals for a period of 14-days; providing detainees with face masks and
10 requiring them to wear masks when outside of their pods; requiring staff to wear face masks;
11 screening employees upon entering the facility; requiring staff conducting entry screenings
12 to wear appropriate PPE; adopting policies consistent with CDC recommendations on
13 sanitation; adopting policies consistent with CDC recommendations on PPE; encouraging
14 staff and detainees to practice social distancing; suspending visitation; purchasing COVID-
15 19 testing kits; securing additional stores of PPE; educating staff and detainees on
16 prevention measures recommended by the CDC; making soap and hygiene materials readily
17 available to detainees; communicating best practices for personal hygiene; ensuring that
18 detainees have access to medical care; and adopting processes to detect and track COVID-
19 19, collect, analyze and report data on individuals exhibiting signs of the virus, and
20 segregate infected detainees. The fact that Defendants aggressively moved to adopt and
21 implement these policies does not evidence a reckless disregard for the health or safety of
22 detainees. To the contrary, it shows that Defendants have responded to COVID-19 with
23 seriousness, diligence, and to safeguard the well-being of the detainees in their care.

24 At any rate, although Plaintiffs acknowledge that Defendants have enacted these
25 policies, they do not allege facts showing that these policies *themselves* are objectively
26 insufficient. Indeed, Plaintiffs assert that Defendants must respond to risks posed by the
27 COVID-19 by following CDC guidelines. (Doc. 1, ¶¶ 44-45.) However, consistent with this
28 Court’s finding (albeit on a more robust record) that “Defendants’ policies reflect the

1 recommendations from the CDC,” even Plaintiffs’ allegations fail to point to discrete
2 policies that Defendants have implemented that fall short of CDC recommendations. Doc.
3 29 at 17-18 (finding “Plaintiffs have not identified a single instance in which Defendants’
4 policies have not complied with CDC guidance”).

5 To be sure, Plaintiffs report alleged instances of inadequate cleaning of their pods,
6 infrequent cleaning of high-touch surfaces, insufficient soap, detainees not practicing social
7 distance or wearing their masks, or officers not “consistently” wearing masks, but as the
8 Court explained in denying Plaintiffs’ request for preliminary injunction, these alleged
9 instances do “not reflect that [Defendants’] policies *themselves* are objectively insufficient,”
10 but instead concern how those policies are being administered. *See id.* at 18; *Ibarra-Perez*,
11 2020 WL 3440298 at *12 (holding “instances in which staff failed to adequately sanitize
12 units, detainees failed to report COVID-19 symptoms,” and “detainees failed to receive
13 certain types of soap ... may show that Respondents’ implementation ... has been less than
14 perfect,” but “it does not demonstrate ... reckless disregard”). Similarly, Plaintiff’s
15 allegation that “[s]ometimes” a detainee is removed from quarantine “by mistake” (Doc. 1,
16 ¶ 49) does not reflect that Defendants have acted with reckless disregard, let alone that
17 Defendants’ quarantine policy *itself* is objectively insufficient. And Plaintiffs have not
18 pleaded any facts showing that Defendants—all high-level officials sued in their official
19 capacities—knew of the alleged noncompliance and failed to take action, or that the
20 noncompliance was so widespread to amount to a *de facto* policy, practice, or custom in
21 reckless disregard to Plaintiffs’ health or safety. Accordingly, the Complaint does not
22 contain factual material sufficient to show that Defendants can be held liable under the Due
23 Process Clause of the Fifth Amendment.

24 **B. Plaintiffs’ Detention Is Not Punitive.**

25 The Ninth Circuit has held that a pretrial detainee “cannot be subjected to conditions
26 that amount to punishment.” *Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004) (internal
27 quotations omitted); *Bell v. Wolfish*, 441 U.S. 520, 535 (1979). A condition is punitive when
28 “imposed for the purpose of punishment” or “excessive in relation” to its non-punitive

1 purpose. *See Bell*, 441 U.S. at 538-39. The Supreme Court has long held that the government
2 may “detain a person suspected of committing a crime prior to a formal adjudication of
3 guilt,” *id.* at 534, and that pretrial detention is a legitimate means of furthering the
4 government’s “substantial interest in ensuring that persons accused of crimes are available
5 for trials and, ultimately, for service of their sentences,” *id.*

6 As recounted above, the pretrial Plaintiffs have all been charged with serious federal
7 crimes, including drug crimes, bank robbery, and aggravated sexual abuse. They have all
8 been determined a serious flight risk, a danger to the community, or both, and they are all
9 subject to valid orders of detention. Plaintiffs allege that the “challenged governmental
10 action is not rationally related to a legitimate governmental objective or ... it is excessive
11 in relation to that purpose” (Doc. 1, ¶ 83 [quoting *Kinglsey*, 135 S.Ct. at 2473-74].) Apart
12 from that threadbare legal conclusion, the Complaint does not appear to contain any factual
13 allegations support to their claim. At any rate, the government has a substantial interest in
14 the pretrial Plaintiffs’ continued detention to secure their presence at future court
15 proceedings and protect the safety of other persons in the community. Given the array of
16 precautionary measures that Defendants have taken to protect the safety and health of
17 detainees at CAFCC, the pretrial Plaintiffs’ continued detention simply cannot be
18 considered excessive in relation to the government’s substantial and legitimate, non-
19 punitive interests. Accordingly, the pretrial Plaintiffs’ Fifth Amendment claims should be
20 dismissed. *See, e.g., United States v. Enos*, Case No. 19-cr-02041-JAS-DTF, ECF No. 67
21 at 16-17 (D. Ariz. April 30, 2020) (holding “Mr. Enos’s continued detention does not
22 constitute pretrial punishment” and “he has not shown that his continued detention violates
23 his due process right to be free from deliberate indifference to his medical needs”).

24 CONCLUSION

25 For the above reasons, Defendants respectfully request that the Court grant their
26 motion and dismiss the Complaint and Petition.

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RESPECTFULLY SUBMITTED this 11th day of August, 2020.

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District of Arizona

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CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2020, I electronically transmitted the attached document to the Clerk’s Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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U.S. Attorney’s Office

EXHIBIT A

EXHIBIT A

SUPPLEMENTAL DECLARATION OF WARDEN K. KLINE

I, K. Kline, make the following Declaration:

1. I am over the age of 18 years and competent to testify to the matters set forth in this Declaration. I make this Declaration in support of Defendants' Opposition to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction based on my own personal knowledge and my review of the relevant documents as maintained by CoreCivic in the usual course of business.

2. I am currently the Warden of CoreCivic's Central Arizona Florence Correctional Complex ("CAFCC"), located in Florence, Arizona, a position I have held since August 2016.¹ Prior to that, I was the Warden of CoreCivic's Kit Carson Correctional Center, located in Burlington, Colorado, for two years.

3. I have been in corrections for over 20 years, having started as a Correctional Officer at CoreCivic's Bay Correctional Facility, located Panama City, Florida, in February 2000.

4. All documents attached to this Declaration are true and accurate copies of documents generated and/or maintained in the normal course of CAFCC's business operations.

CAFCC Design and Population

5. CAFCC is owned and operated by CoreCivic, Inc. ("CoreCivic"). CAFCC was formerly two facilities—Central Arizona Detention Center ("CADC") and Florence Correctional Center ("FCC")—both owned and operated by CoreCivic, and located in close proximity to each other in Florence, Arizona. The two facilities were administratively combined into CAFCC in 2017. Internally, the former CADC is referred to as CAFCC East, and the former FCC is referred to as CAFCC West.

¹ CAFCC was formerly two facilities—Central Arizona Detention Center ("CADC") and Florence Correctional Center ("FCC")—both owned and operated by CoreCivic. The two facilities were administratively combined into CAFCC in 2017. I was the Warden of FCC when the facilities were combined.

1 6. CoreCivic provides immigration and criminal detention services for U.S.
2 Immigration and Customs Enforcement (“ICE”), the United States Marshals Service
3 (“USMS”), and the City of Mesa (“Mesa”) pursuant to detention service contracts with
4 those entities. CoreCivic provides healthcare services to CAFCC’s detainee population.

5 7. Neither I, as Warden of CAFCC, nor CoreCivic, determine which USMS
6 detainees are assigned to CAFCC, or for how long. Rather, such assignments, as well as
7 transfer and release determinations, are made by USMS and/or the federal courts.

8 8. CAFCC has a total design capacity of 5,003 detainees, with capacity for 3,110
9 USMS detainees. CAFCC operates 15 housing units of varying layouts and designs,
10 including traditional two-person cells and larger cells housing 14-16 detainees.

11 9. CAFCC operates two receiving and discharge units (one in East, and one in
12 West), eight medical units (four medical departments (one in East and three in West), three
13 satellite medical units (two in East and one in West), and one infirmary (West)), 15 laundry
14 facilities (one in each housing unit, with two commercial washers and two commercial
15 dryers in each one), four kitchens (three food production kitchens (one in East and two in
16 West) and one dish room kitchen (West)), two commissaries (one in East, one in West), one
17 chapel (located in East, with chapel services in West conducted in multi-purpose rooms),²
18 three libraries (two in East, one in West), 14 recreation yards (five in East, nine in West),
19 social and legal visitation facilities, warehouse, and maintenance department.

20 10. The medical units can house up to 29 detainees—17 in the medical units and
21 12 in the infirmary. CAFCC has five negative pressure rooms, none of which are currently
22 in use, and has access to two additional negative pressure rooms at CoreCivic’s Saguaro
23 Correctional Center, located in Eloy, Arizona, as overflow units.

24 11. USMS, ICE, and Mesa detainees (as well as male and female detainees) are
25 housed separately and do not intermix with other populations in housing, programming,
26

27 ² Religious services in groups are not currently being held due to social distancing
28 rules.

1 recreation, meal services, facility movement, etc., except in special circumstances. For
2 example, detainees of two or more jurisdictions may be housed in the Restrictive Housing
3 Unit (“RHU”) at the same time, but they are not housed in the same cells, and
4 movement/activity is restricted such that detainees from the different jurisdictions do not
5 have contact with or access to each other. Additionally, detainees of two or more
6 jurisdictions who have demonstrated symptoms of COVID-19 may be housed in one of
7 CAFCC’s quarantine units, but again, movement/activity is restricted such that detainees
8 from the different jurisdictions do not have contact with or access to each other.

9 12. As of August 7, 2020, CAFCC was operating at 68% of its design capacity,
10 with 3,380 total detainees and 3,222 USMS detainees.

11 13. New intakes have decreased since March 19, 2020 from an average of
12 approximately 100 detainees per day to approximately 5-10 detainees per day.

13 **COVID-19 Test Data**

14 14. Prior to August 4, 2020, CAFCC policy was to test symptomatic detainees for
15 COVID-19 as determined necessary by a licensed independent medical provider based on
16 a particular detainee’s symptoms. Since August 4, 2020, CAFCC now also tests detainees
17 who have been in close contact with a confirmed COVID-19-positive individual, consistent
18 with recent changes to CDC guidelines. See [https://www.cdc.gov/coronavirus/2019-ncov/
19 community/correction-detention/guidance-correctional-detention.html](https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html), last accessed
20 August 7, 2020. “Close contact” is defined as being within six feet of a COVID-19-positive
21 individual for 15 minutes or more.

22 15. As of August 7, 2020, there were only 17 detainees at CAFCC who are
23 currently positive for COVID-19. Since the first positive detainee was identified on May 1,
24 2020 through August 7, 2020, a total of 323 detainees have tested positive for COVID-19
25 at CAFCC, 71 detainees have tested negative, and 28 were pending results.

26 16. Prior to May 13, 2020, no COVID-19-positive detainees at CAFCC had
27 contracted the virus from the general population—all cases of COVID-19 at CAFCC came
28

1 from new intakes, and were identified during the 14-day quarantine period all new intakes
2 are subject to when they arrive at CAFCC, as described more fully below.

3 17. On May 12, 2020, a general population detainee in Golf Delta Pod presented
4 with a fever, and was taken to J Pod to quarantine, where he was tested for COVID-19. His
5 test came back positive on May 13, 2020, at which point Golf Delta Pod was placed in
6 quarantine status.

7 18. As of August 7, 2020, 11 CAFCC detainees have been hospitalized due to
8 COVID-19; no detainees are currently in the hospital. Unfortunately, one detainee died due
9 to COVID-19 on July 30, 2020.

10 19. As of August 7, 2020, CAFCC employed 880 staff members, only 11 of
11 whom are currently positive for COVID-19. A total of 146 staff members have tested
12 positive, but 135 have recovered and are back to work.

13 **CAFCC/CoreCivic COVID-19 Response Coordination**

14 20. CoreCivic recognizes the unique and exceptional nature of the current
15 COVID-19 pandemic, and takes seriously its responsibility to protect the safety and security
16 of the detainees in its facilities, its staff, its contractors' employees, its governmental
17 partners' employees, and the public in general.

18 21. CoreCivic's Facility Support Center ("FSC"), located in Brentwood,
19 Tennessee, has developed company-wide protocols in response to COVID-19, which are
20 implemented at the facility level based on each facility's unique detainee population,
21 physical plant, and safety and security concerns. FSC is providing ongoing guidance and
22 instruction to its facilities, consistent with recommendations of the Centers for Disease
23 Control and Prevention ("CDC") and CoreCivic's governmental partners, as well as state
24 and local health authorities where its facilities are located. As additional recommendations
25 are made in consideration of localized health conditions, practices to prevent the spread of
26 COVID-19 at CAFCC have evolved, with changes occurring sometimes on a daily basis.

27 22. FSC has also activated its Emergency Operations Center, which allows for
28 effective communication and guidance to all CoreCivic facilities in a timely manner as to

1 daily developments regarding COVID-19 information, CDC guidance, and developing
2 operational modifications and enhancements.

3 23. Each day and based upon need, CoreCivic facility administrators with a first
4 COVID-19 positive test or significant change in circumstances participate in a conference
5 call with CoreCivic's Emergency Operations Center to review current and new protocols,
6 receive CDC updates, and discuss additional concerns and requests. CoreCivic facility
7 leaders also participate in a call three times a week to discuss new protocols, receive CDC
8 updates, and discuss additional concerns and requests related to COVID-19 response.
9 Further, all CoreCivic facility administrators have access to an intranet SharePoint site
10 containing all company-wide information, communications, and updated protocols related
11 to COVID-19.

12 24. CAFCC has its own daily briefing with facility leadership and designated
13 supervisory staff to discuss daily issues and assign tasks associated with COVID-19
14 operational responses. Facility leadership is tasked with speaking to staff and detainees
15 about precaution requirements; encouraging staff and detainees to seek medical care if they
16 feel ill or show signs of illness; monitoring staff and detainees for signs of illness; engaging
17 in ongoing efforts with staff and detainees to promote cleanliness and social distancing;
18 verifying ample supplies of appropriate materials; and conducting sanitation inspections on
19 a daily basis in their delegated areas of responsibility. CAFCC's COVID-19 Sanitation
20 Schedule and Protocols further guide daily responsibilities to ensure the facility is properly
21 and regularly cleaned and sanitized.

22 25. The facility has developed a staffing contingency plan in the event there are
23 increased staff absences due to the virus. In addition, certain posts have been collapsed as
24 detainee movement is restricted to prevent COVID-19 exposure and these staff are
25 reassigned to accommodate staffing needs in other operational areas.

26 26. I am in continual contact with USMS, ICE, and Mesa officials in order to
27 keep CAFCC's government partners updated on all protocols and procedures in place at the
28

1 facility, to report on the status of facility operations and detainee health statistics, and to
2 address any concerns or directives they may have regarding CAFCC operations.

3 27. I am also in frequent contact with the Pinal County Public Health Services
4 District as well as other local government bodies and government officials such as the
5 Florence City Manager, local law enforcement, and local emergency medical services to
6 provide status updates as to infection rates, ensure that any applicable state and local
7 protocols are met, and discuss emergency procedures and plans of action.

8 28. CoreCivic/CAFCC has security-sensitive and confidential emergency plans
9 for Medical Emergency (including specifically COVID-19) and Pandemic Flu
10 Preparedness, as part of its Emergency Response Policy—policies in effect long before
11 COVID-19. The disclosure of the specific details of those plans poses a legitimate safety,
12 security, and operations risk should they be communicated to the detainee population or the
13 public. Furthermore, CAFCC already has policies in place to manage and treat potential
14 outbreaks of communicable diseases, such as influenza or tuberculosis.

15 29. In February 2020, CoreCivic issued an initial Pandemic Coronavirus Plan that
16 has been continually updated as more has become known about the virus and as guidance
17 is provided by the CDC.

18 30. CoreCivic has also initiated a COVID-19 Medical Emergency Plan that has
19 been implemented at all CoreCivic facilities, including CAFCC.

20 **Cohort/Quarantine Strategies**

21 31. CAFCC has developed and is constantly reviewing its contingency plans for
22 confirmed or presumptive COVID-19-positive detainees to promote containment and
23 prevent further exposure and infection.

24 32. CAFCC has the ability to adjust housing unit use and dedicate particular
25 housing pods for cohort or quarantine purposes in order to limit exposure to other detainees
26 or staff.

27 33. Starting on March 19, 2020, CAFCC began cohorting new arrivals and
28 detainees returning from outside transports based on their intake/facility return date.

1 34. For example, all detainees arriving at the facility on March 19, 2020 would
2 be assigned to a cohort with an expected release date of April 2, 2020, assuming no
3 detainees from that cohort showed symptoms of COVID-19 or tested positive for the virus
4 during that time. All detainees arriving at the facility on March 20, 2020 would be assigned
5 to a cohort with an expected release date of April 3, 2020, and so on.

6 35. If a detainee from the cohort displays symptoms of COVID-19, such as fever
7 over 101 degrees, coughing, body aches, or shortness of breath, or is confirmed to be
8 positive for COVID-19, the cohort's release date is extended to 14 days from the last such
9 instance. There are at least 14 active cohort groups at any given time.

10 36. Prior to May 1, 2020, most new arrivals were cohorted in Lima Unit, which
11 consists of eight pods of two-man cells. Since May 1, 2020, most new arrivals are cohorted
12 in either Delta Unit, which also consists of eight pods of two-man cells, or Juliet Unit, which
13 consists of eight pods of two-man cells.³

14 37. These cohorted detainees are housed individually as much as possible. To the
15 extent it is necessary to house them with a cellmate, detainees are housed with another
16 detainee from their cohort. Signs are posted on each cell indicating the cohort group number
17 and anticipated end date.

18 38. Although a particular pod may house detainees in different cohort groups, the
19 detainees are in a lockdown status in which they are only allowed be out of their cells with
20 other detainees from their own cohort group. This is done to permit cohorted detainees to
21 have dayroom time with other detainees while preventing detainees from different cohorts
22 from intermixing and potentially cross-contaminating.

23 39. The dayroom and other common areas are sanitized between groups,
24 following CAFCC's COVID-19 Sanitation Schedule and Protocols. Specifically, this
25 requires that: HDQC2, a quaternary disinfectant that is EPA-registered for use against

26
27 ³ Some detainees, such as females, detainees who require protective custody, or
28 material witnesses are not able to be housed in Lima, Delta, or Juliet Unit, but were housed
in units suitable to their particular needs following the general guidelines outlined here.

1 COVID-19,⁴ be sprayed on showers, tables, door handles, knobs, handrails, push buttons,
2 intercoms, and workout equipment, and that phones and kiosks be wiped with a towel that
3 has been sprayed with HDQC2.

4 40. Once the cohort has completed their 14-day period, they are assigned to a
5 general population unit as appropriate in light of their custody status and other classification
6 criteria.

7 41. When a detainee who is not in a cohorted status displays symptoms of
8 COVID-19, such as fever over 101 degrees, coughing, body aches, or shortness of breath,
9 they are removed from their pod and quarantined in Lima Unit pending medical assessment
10 and testing for COVID-19 as deemed necessary by medical staff.⁵ The detainee's pod is
11 then placed on quarantine status for a period of 14 days.

12 42. To ensure that the detainee does not contaminate others while being moved
13 to Lima Unit, they are moved through the facility in face mask, goggles, and gloves, and
14 the hallways are shut down and cleared of all other staff and inmates while the movement
15 is taking place.

16 43. If the detainee tests positive for COVID-19, they are kept in Lima Unit until
17 they have been symptom-free for at least 72 hours, at which point they are moved to a
18 recovery pod for a further 14-day cohort period before returning them to a general
19 population unit. If the detainee tests negative for COVID-19, they are kept in quarantine for
20 14 days before being returned to a general population pod.

21 44. Detainees in Lima Unit are generally housed individually, but may be housed
22 with a cellmate if both detainees are confirmed positive or confirmed negative for COVID-
23 19.

24
25 ⁴ See <https://www.spartanchemical.com/products/product/470202/#top> and https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2#filter_coll,
26 search for "1839-169," both last accessed August 7, 2020.

27 ⁵ Since August 4, 2020, close contacts of confirmed COVID-19-positive detainees
28 are tested for COVID-19 as well.

1 45. I am aware that detainees Maria Lucero-Gonzalez and Claudia Romero-
2 Lorenzo claim they were exposed to other detainees who showed symptoms of COVID-19
3 but were not removed from their pods. This is false. Detainees are responsible for reporting
4 their symptoms to staff so they can be immediately assessed and quarantined if necessary.

5 46. I am also aware that attorney Christina Woehr claims an unidentified male
6 detainee in Lima Unit told her his pod was released from quarantine “seemingly by mistake”
7 sometime during the week of April 27, 2020 (Ms. Woehr, who signed her Declaration on
8 May 7, 2020, stated only that this detainee told her this incident occurred sometime the
9 week before). This is false. Lima Unit went from cohort status to quarantine status on April
10 27, 2020. As a practical matter, however, the daily lives of detainees in Lima Unit were
11 unaffected as a result of the change in status, as they were still permitted to mingle in their
12 assigned dayrooms. No detainees were moved from Lima Unit to a general population pod
13 and then moved back several hours later at any time during the week of April 27, 2020, or
14 at any time since then.

15 47. All staff entering a cohort or quarantine area must wear full personal
16 protective equipment (“PPE”), including a full suit/coveralls, rubber boots, gloves, N-95
17 respirator, and goggles/face shield.

18 48. Upon exiting a cohort or quarantine area, staff must stop at the designated
19 decontamination zone and remove their PPE and any contaminated materials. Boots,
20 goggles/face shields, and any other PPE that can be cleaned and sanitized is sprayed with
21 HDQC2. Any PPE that cannot be cleaned and sanitized is disposed of in a red biohazard
22 bag. Staff must then wash their hands thoroughly; a shower is also available if needed. Staff
23 then exit the decontamination zone through a pre-designated route to minimize the transfer
24 of any contaminants.

25 49. All trash from the cohort and quarantine housing areas is treated as medical
26 waste/biohazardous material.

27 50. Cohort and quarantine housing are not punitive measures, and do not subject
28 detainees to conditions of confinement similar to heightened restrictions placed on RHU

1 detainees. Rather, detainees are provided with the same activities and opportunities as they
2 would receive in a general population pod, including access to recreation, dayroom time,
3 programming, commissary, legal visitation (including virtual legal visits when possible),
4 video court appearances, telephone calls, detainee mail operations, legal research access via
5 housing pod kiosks, library access via request/delivery from the librarian, and legal copy
6 requests via the facility librarian, subject to restricted movement protocols.

7 51. Detainees in cohort status receive 7-day and 14-day medical assessments,
8 unless they report and/or display symptoms of COVID-19, in which case they are evaluated
9 by medical staff immediately. In between those assessments, cohorted detainees with
10 medical issues have access to medical through the use of the sick call system by filling out
11 a Sick Call Request form and depositing it in the drop box, where it is checked daily and
12 triaged by facility nursing staff. Detainees in quarantine status receive daily medical
13 assessments. Detainees not in either a cohort or quarantine have access to medical through
14 the use of the sick call system as well. Detention and unit staff are also available 24 hours
15 a day to all detainees to report any emergent medical needs.

16 52. On or about March 18, 2020, CAFCC Health Services Administrator
17 (“HSA”) K. Jaramillo, in consultation with Senior Physician John Osteen, M.D., created a
18 list of 67 detainees who are at higher risk for severe illness if they become infected with
19 COVID-19 based on CDC guidelines. See [https://www.cdc.gov/coronavirus/2019-ncov/
20 need-extra-precautions/people-at-higher-risk.html](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html), last accessed August 7, 2020. That list
21 is updated regularly as new detainees are booked into CAFCC and others are transferred or
22 released.

23 53. On or about April 7, 2020, CAFCC initiated a High-Risk Detainee Plan for
24 COVID-19 that outlines operational strategies to identify, monitor, and care for these
25 higher-risk detainees.

26 54. A copy of the higher-risk list is provided to the Chief of Unit Management to
27 ensure continued monitoring of the higher-risk detainees and prompt treatment if they are
28 exposed or potentially exposed to COVID-19.

1 55. CAFCC does not cohort detainees at higher risk of severe illness, however,
2 to avoid inadvertently exposing the more vulnerable detainees to COVID-19.

3 56. Detainees on the higher-risk list continue to receive regular medical care for
4 their underlying medical conditions.

5 57. All detainees are regularly advised via postings throughout the facility and
6 regular Town Hall Meetings, including written Town Hall Meeting Records posted in the
7 housing units, to let staff know immediately if they have fever, chest congestion, difficulty
8 breathing, or other symptoms of COVID-19. All unit and security staff have also been
9 instructed on COVID-19 symptoms and to contact medical personnel immediately if such
10 symptoms are reported or observed.

11 58. Detention staff are also trained in the normal course of operation to administer
12 emergency first aid. Medical staff provide support around the clock through medical
13 providers available on-site and on-call.

14 59. There are no vaccines for COVID-19. All detainees who test positive for
15 COVID-19, or are awaiting test results, are treated according to existing clinical criteria
16 with acetaminophen, fluids, and rest, unless a higher level of care requiring hospitalization
17 is indicated. If hospitalization is required, CAFCC has agreements with several area
18 hospitals, including but not limited to Mountain Vista Medical Center in Florence, Banner
19 Ironwood Hospital Medical Center in Queen Creek, Mercy Gilbert Medical Center in
20 Gilbert, and St. Joseph's Hospital in Phoenix.

21 **Efforts to Mitigate Risk of Introduction/Spread of COVID-19 at CAFCC**

22 60. Consistent with CDC Interim Guidance on Management of [COVID-19] in
23 Correctional and Detention Facilities ("CDC Interim Guidance"),⁶ USMS guidelines, and
24 industry practices, CAFCC has taken ample and appropriate steps to reduce COVID-19
25 exposure and infection for the detainee population and staff.

26
27 ⁶ See [https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention](https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html)
28 [/guidance-correctional-detention.html](https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html), last accessed August 7, 2020.

1 61. These steps have been highly effective. As of August 7, 2020, CAFCC has
2 only had 323 COVID-19-positive detainees, only 17 of which are currently positive, despite
3 having an average daily population of 3,375 detainees since March 19, 2020.

4 62. CAFCC suspended social visitation on March 12, 2020 to protect CAFCC
5 from outside COVID-19 exposure. Volunteer entry was also suspended for the same reason.

6 63. Legal visitation has not been suspended, but non-contact visitation, including
7 through the use of telephones or the facility video teleconferencing (“VTC”) system is
8 encouraged. The VTC system is available from 7:00 a.m. to 9:00 p.m. Monday-Friday. No
9 firm time limits are placed on detainees using the VTC, but detainees are encouraged to be
10 efficient with their use of it to ensure that all detainees who want/need to use it are able to
11 do so, given that CAFCC houses detainees from several jurisdictions (who do not intermix),
12 of varying custody levels (who do not intermix), of both sexes (who do not intermix), and
13 who may be under cohort or quarantine status (and do not intermix).

14 64. If an attorney requests a contact visit, the visitation area is sanitized with
15 HDQC2 before and after the visit, including, but not limited to, by wiping down chairs,
16 tables, telephones, and other surfaces and equipment. Very few contact legal visits have
17 occurred since these precautions went into effect, however, as most attorneys prefer to use
18 the VTC system.

19 65. Detainees may also call their attorneys from their housing pods (the calls are
20 not monitored/recorded if the detainee has previously designated the recipient as an
21 attorney) including placing collect calls to their attorneys. If the attorneys are already on the
22 facility pro bono counsel legal call list, the calls are free of charge and not
23 monitored/recorded. Although the in-pod telephones are fixed in place and cannot be
24 moved, detainees have ample space in the dayroom to ensure social distancing between
25 those on the telephone and those waiting to use the telephone, and they can wear masks
26 while on the telephone or waiting to use the telephone to provide additional protection as
27 well.
28

1 66. In addition to attorney-client visits, the VTC system is used for court
2 appearances, including probation interviews, initial appearances, and other court hearings.
3 CAFCC facilitates approximately 650-700 such uses each week.

4 67. CAFCC does not currently transport detainees for in-person court hearings,
5 as the District of Arizona suspended in-person hearings as of March 20, 2020. Similarly,
6 pursuant to USMS directives, CAFCC stopped all transports for non-urgent outside medical
7 consults as of April 2, 2020 (but continues to make emergency transports as needed).

8 68. All persons entering CAFCC, whether they are a CoreCivic employee,
9 contractor, USMS/ICE/Mesa employee, or attorney, are subject to screening as a pre-
10 requisite to entrance to the facility.

11 69. Signs at the front gate advise all persons entering CAFCC that they must wear
12 a mask to enter. If they do not have a mask, they are directed to maintain social distancing
13 and obtain and immediately put on a mask once they are in the lobby.

14 70. Signs on the door to the lobby again advise all persons entering CAFCC that
15 they must wear a mask to enter. If they do not have a mask, they are directed to maintain
16 social distancing and obtain and immediately put on a mask once they are in the lobby.

17 71. Signs in the lobby remind all persons entering the facility to wear their masks
18 to protect themselves and others.

19 72. Consistent with CDC Interim Guidance, the entry screening consists of a
20 series of questions, including whether the person has returned from international travel, had
21 close contact with anyone diagnosed with COVID-19, or returned from military deployment
22 related to COVID-19 response in the past 14 days, as well as whether the person has
23 experienced any COVID-19-related symptoms in the past 24 hours, as well as a temperature
24 check with a no-touch thermometer. Staff administering the screening wear full PPE,
25 including coveralls, gloves, N-95 respirator, and face shield, and social distancing is also
26 employed during the entrance screening process.

27
28

1 73. If any person answers affirmatively to the screening questions, or if the person
2 exhibits symptoms of COVID-19 as defined by CDC guidelines, including but not limited
3 to a fever in excess of 100.4 degrees, they are denied entry to the facility.

4 74. If a CoreCivic employee is denied entry, the employee is sent home and
5 directed to see a healthcare provider for further screening. Those that have been denied
6 entrance must obtain clearance from their medical provider and provide documentation
7 before they will be admitted into the facility. Likewise, if any staff member experiences
8 symptoms at work, that individual is immediately sent home and directed to see a healthcare
9 provider as soon as possible.

10 75. When an employee has been denied entry, or reports a confirmed positive test
11 or close contact with a confirmed positive individual, CAFCC performs a contact tracing
12 analysis, using the facility surveillance system to document each contact the infected or
13 potentially infected person had during the employee's last 48 hours at the facility. This
14 allows CAFCC to identify any other employees or detainees who may require additional
15 surveillance, precautions, or testing in order to minimize the spread of COVID-19 within
16 the facility. CAFCC performs a similar contact tracing analysis for any detainees who are
17 confirmed positive for COVID-19.

18 76. Following entrance health screening, persons permitted to access the facility
19 are still required to complete security screening. Only one person may enter security
20 screening at a time. Generally, the security screening resembles most airport security
21 screenings, where items carried by, or to be removed from, a person screened are placed on
22 bins and sent through a scanner. At CAFCC, officers that manage the scanners disinfect the
23 bins after each use. The security screening officers wear gloves such that only the owners
24 of the items screened touch the property with ungloved hands.

25 77. The housing units at CAFCC are largely self-contained, such that there is little
26 detainee traffic in the hallways even under normal circumstances. Nevertheless, detainee
27 movement within the facility has been significantly limited to reduce COVID-19 exposure.
28 Moreover, detainees are required to wear paper surgical masks any time they leave their

1 pod, especially when they are going to an area where social distancing is more difficult,
2 such as the medical unit, a case manager's office, or a legal visit.

3 78. The transportation of detainees to off-site medical providers has been limited
4 to only essential and/or emergency medical services. In the event it is necessary to transport
5 a detainee to an offsite hospital or clinic, staff are required to screen the detainee for
6 COVID-19 by checking the detainee's temperature and noting it on the transfer of custody
7 receipt or transport orders. If the temperature is 100 degrees or above, the detainee is given
8 a paper mask and escorted to medical immediately. A thermometer and 25 paper masks are
9 kept in the Transportation Senior Correctional Officer's Office for this purpose. Staff are
10 required to wear an N-95 mask.

11 79. Once the detainee returns to the facility, they are screened at intake in
12 accordance with CDC Interim Guidance and cohorted for 14 days. All CoreCivic transport
13 vehicles are disinfected completely both before and after each transport.

14 80. As in the rest of the country, one challenge at CAFCC has been to gauge the
15 ordering and availability of PPE and sanitation products to ensure the facility is prepared,
16 while understanding the possibility that such supplies may become unavailable in the future
17 due to heightened demand. For this reason, CAFCC began increasing its stock of PPE and
18 sanitation supplies in February.

19 81. As of August 7, 2020, CAFCC had the following PPE items in stock:

- 20 • 575 Eye Protection
- 21 • 400 Coveralls
- 22 • 2,200 N-95 Masks
- 23 • 24,007 paper surgical masks
- 24 • 940 Boxes Gloves (50 Count)

25 82. CAFCC personnel have long been issued protective gloves as part of
26 universal precautions to reduce the risk of exposure to or transmission of any pathogen. In
27 the normal course of operations, detention staff are required to wear gloves when
28

1 conducting searches of detainees, their cells, and their personal property. These normal
2 protocols did not change with onset of COVID-19.

3 83. Like the nation at large, both CoreCivic and CAFCC are continually adjusting
4 to the rapid changes brought about by the COVID-19 pandemic, including the adaptation
5 of practices and policies in accordance with guidance from health experts, particularly the
6 CDC, to ensure the health and safety of detainees, staff, and the community.

7 84. One area of recent change in guidance from national health experts pertains
8 to the utilization of face masks to decrease COVID-19 transmission. Initially, the CDC did
9 not recommend face masks for individuals who are well. As guidance from the CDC has
10 evolved in this regard, so have CAFCC operations.

11 85. When CAFCC began cohorting detainees on March 19, 2020, the use of
12 masks by staff working outside of the protective cohorts was optional, but such use was
13 required if working in the cohort or quarantine pods.

14 86. Since April 13, 2020, CAFCC staff have been permitted to wear a face mask
15 while on duty. Since April 28, 2020, CAFCC staff have been required to wear a face mask
16 while on duty. Staff are instructed that the mask should cover both the mouth and nose and
17 be adjusted by the wearer as frequently as needed to ensure the best coverage of the mouth
18 and nose. Staff have also been instructed on re-use and cleaning/laundrying of paper and
19 cloth masks per CDC guidelines.

20 87. CAFCC has also offered all detainees paper and cloth face masks, without
21 cost to them. Paper masks were first offered to detainees on April 13, 2020, and again on
22 May 11, 2020. Cloth masks were offered to all detainees on May 21, 2020. Detainees were
23 not required to return or dispose of their paper masks in order to receive cloth masks.

24 88. On April 13, 2020, when CAFCC first offered paper face masks to detainees,
25 CAFCC's supply of such masks was limited. In order to effectively manage this resource,
26 detainees were instructed to take care of the masks and make them last. At any time,
27 however, if a detainee's mask became soiled, torn, or otherwise unusable, they could request
28 a new mask, and it would be provided to them.

1 89. Detainees are not required to wear their masks inside their housing units if
2 they do not wish to, but they are encouraged to do so and have been educated as to the
3 reasons for such use, as detailed below. They are, however, required to wear their masks
4 any time they are outside their housing units, including but not limited to while in the
5 hallways, at kitchen assignments, in staff offices, in the medical unit, or in any other area
6 where social distancing cannot be accomplished.

7 90. Although the use of face masks within the housing units is encouraged
8 repeatedly and often, the decision was made not to enforce 100% mask use during waking
9 hours for several reasons. First, there would be detainees who would push back, requiring
10 the use of graduated disciplinary measures, up to and including placement in the RHU.
11 Second, and related to the first, filling the RHU with detainees who refuse to wear masks
12 would (1) take away beds that could be used to cohort or quarantine detainees, (2) take away
13 beds that are needed for other, more serious disciplinary infractions, and (3) eventually
14 result in detainees having to be double-celled in a situation in which they are in their cells
15 for up to 23 hours per day, during which time they would be unable to practice proper social
16 distancing.

17 91. Gloves and masks are provided to detainees who participate in the Voluntary
18 Work Program (“VWP”) as pod porters. Similarly, detainees who participate in the VWP
19 as kitchen workers are given masks, gloves, and other protective equipment as required by
20 applicable guidelines, such as hair nets. Detainees who participate as commissary workers
21 and in-pod laundry workers are also provided masks.

22 **Staff and Detainee COVID-19 Education**

23 92. CAFCC has a long track record of training its staff with respect to potential
24 exposure to pathogens, disease spread prevention, emergency response, and adherence to
25 universal precautions.

26 93. In accordance with CDC Interim Guidance, educational materials have been
27 posted throughout the facility and in all housing units regarding COVID-19 symptoms, what
28

1 to do if you are sick, hand-washing, sanitation and cleanliness, mask use, and steps to reduce
2 the risk of exposure.

3 94. Communication is key. Unit staff hold Town Hall Meetings every time there
4 is a change in procedure, such as when social visitation was cancelled, when the sanitization
5 schedule was updated, when mask procedures were updated, etc. Because guidelines and
6 recommendations with regard to COVID-19 are constantly evolving, this results in Town
7 Hall Meetings being conducted once or twice per week on average. Town Hall Meeting
8 Records are posted in the housing units to remind detainees of the topics discussed, and
9 record both the topics presented by unit staff as well as any concerns expressed by detainees
10 during the meeting and written responses to those concerns. I also prepared a Notice to the
11 Population regarding the facility's COVID-19-related efforts and directed that it be posted
12 in the housing units.

13 95. Exemplar Town Hall Meeting Records for June and July 2020 demonstrate
14 that detainees continue to be educated regarding COVID-19 prevention and response
15 strategies. For example, detainees were educated (in English and Spanish) as follows:

16 6/22/20—Practice good hygiene habits: Wash your hands as often as you can
17 for at least 20 seconds. Avoid touching your eyes, nose, mouth as much
18 as possible. Avoid contact with other individuals. No hugs or
19 handshakes, wave hi instead. Wipe down surfaces and other areas that
20 are frequently touched throughout the day (Doors, Phones,
21 microwaves, etc.)

22 6/22/20—Facility changes due to COVID-19 virus: Masks issued to all
23 inmates. Staff are being questioned and temp checked each day upon
24 entrance to the facility to prevent any spread of covid-19. There are
25 currently over 40 confirmed cases of covid-19 at CAFCC. Most of
26 which have recovered and returned to general population. Wear your
27 mask anytime you exit your pod for any reason. In addition wear your
28

1 mask in the pod when coming into close contact with staff or other
2 inmates. Masks must be worn to receive commissary.

3 6/22/20—Things you can do to protect yourself from covid-19: Sleep feet to
4 feet with you[r] cell mate, not head to head. Wear your mask at all
5 times even when you are inside your cell. Clean commonly touched
6 items as frequently as possible and wash your hands as often as
7 possible. Try to avoid touching your mouth, nose and eyes. Please
8 check your board posting for sign[s] and symptoms and how to protect
9 yourself. Practice social distancing at all time[s].

10 6/22/20—Quarantine procedure: If medical suspects that someone may have
11 covid-19 that individual will be removed from the pod [and] placed on
12 isolation in medical. The remaining inmates in the pod will be placed
13 on cell restriction until the results come back. The pod will [be] offered
14 a dayroom time schedule, however rec will be suspended until
15 quarantine status is lifted. If the covid test comes back negative the
16 quarantine status will be lifted immediately. If the test is positive then
17 the pod will remain on quarantine status for 14 days. At the end of each
18 dayroom time. Spray down all commonly touched surfaces and let air-
19 dry for 10 minutes. Laundry will be conducted daily by 1 porter per
20 pod. Feed will be done by staff in cell on Styrofoam trays.

21 7/13/20—Masks: If you need a new mask or yours is defective please contact
22 unit staff to get a new one. We are not going to give masks so you can
23 stock pile them.

24 (Exemplar Town Hall Meeting Records for Unit 11 for June 22, 2020 and July 31, 2020 at
25 Attachment 1.)

26 96. Additionally, if detainees have any questions or concerns about COVID-19,
27 they may always speak with detention and unit staff, who are trained to answer their
28 questions.

1 97. Detainees are not required to forego social distancing recommendations in
2 order to attend Town Hall Meetings conducted by unit staff. To the contrary, unit staff
3 regularly have to direct detainees not to group up and to maintain social distancing—for
4 which there is plenty of room in the dayrooms—during the Town Hall Meetings.

5 **Maintaining Social Distancing Among Staff and Detainees**

6 98. Although it is challenging to always maintain six feet of physical distance in
7 a custodial setting, practices have been implemented at CAFCC to promote social
8 distancing.

9 99. The dayroom areas of CAFCC's housing pods are large and allow ample
10 space for detainees to socially distance themselves from each other. This is especially true
11 where CAFCC's total population is at 68% of its design capacity.

12 100. Detainees are regularly advised of the importance of social distancing during
13 Town Hall Meetings and everyday interactions with staff.

14 101. Programming has been reduced, but not eliminated, and is limited to groups
15 of less than 10 to comply with applicable guidelines and to allow six feet of social
16 distancing. Recreation is largely unchanged, as CAFCC's 14 recreation yards already
17 allowed proper social distancing, except for the cohort groups, which are run one cohort at
18 a time to ensure the cohorts do not intermix.

19 102. Even before COVID-19, CAFCC used a satellite feeding procedure for meal
20 service in which meals are delivered to the housing units. Kitchen workers bring the food,
21 dishes, and other equipment to the pod. Kitchen workers wear masks, gloves, and hair nets
22 as needed, and the food is protected by sneeze guards. Workers deliver the trays through
23 the food port to detainees waiting in line in the pod. Detention officers in the pod monitor
24 the line and remind detainees to practice proper social distancing when they bunch up.
25 Detainees are permitted to eat their meals wherever they would like within the pod, such as
26 at the dayroom tables or in their cells, in order to further facilitate social distancing.

27 103. As with the masks, although social distancing is encouraged repeatedly and
28 often, the decision was made not to enforce 100% social distancing within the housing units

1 for several reasons. First, there would be detainees who would push back, requiring the use
2 of graduated disciplinary measures, up to and including placement in the RHU. Second, and
3 related to the first, filling the RHU with detainees who refuse to socially distance inside the
4 housing units would (1) take away beds that could be used to cohort or quarantine detainees,
5 (2) take away beds that are needed for other, more serious disciplinary infractions, and (3)
6 eventually result in detainees having to be double-celled in a situation in which they are in
7 their cells for up to 23 hours per day, during which time they would be unable to practice
8 proper social distancing.

9 **Enhanced Sanitation Procedures**

10 104. Consistent with CDC Interim Guidance, CAFCC has enhanced its already
11 robust sanitation practices in response to COVID-19.

12 105. In recognition of the potential future shortage of sanitation supplies, CAFCC
13 increased its inventory of cleaning chemicals and supplies beginning in February 2020. That
14 inventory is checked and restocked daily to maintain a sufficient supply on hand,
15 particularly if additional shortages occur in the public market.

16 106. CAFCC's facility housekeeping plan was reviewed, updated and enhanced to
17 comply with CDC Interim Guidance. In particular, instructions were added pertaining to
18 the safe and recommended use of EPA-registered disinfectants, as well as appropriate use
19 of PPE in areas where the COVID-19 virus may be present.

20 107. During Town Hall meetings, detainees are instructed on how to safely sanitize
21 the common area surfaces that they may use during the day before and after use, such as
22 detainee telephones and kiosks.

23 108. Per CDC Interim Guidance, soap and water is still the most effective
24 mechanism to kill COVID-19. To that end, CAFCC gives each detainee two bars of soap
25 and a bottle of shampoo/body wash each week, and each housing unit has sufficient clean
26 running water and paper towels for the detainees who live there. If a detainee runs out of
27 either one before the next weekly distribution, all they have to do is ask for a replacement,
28 and it will be provided to them. A one-for-one exchange is only required for the

1 shampoo/body wash, which comes in a bottle, to prevent stockpiling by detainees of
2 materials that can be used in larger quantities to create safety and security risks to staff and
3 other detainees.

4 109. Any allegation that soap is not readily available is false. For the months of
5 June and July 2020, CAFCC issued an average of 27,200 bars of soap and 13,600 bottles of
6 shampoo/body wash free of charge to detainees each month.

7 110. For legitimate and corrections-industry-accepted safety and security reasons,
8 detainees are not provided with alcohol-based hand sanitizer, as it is inflammatory and can
9 be used to make homemade alcohol.

10 111. In the normal course of operation, CAFCC detainees are provided with
11 facility-approved cleaning and EPA-registered disinfecting supplies, such as HDQC2, to
12 clean and sanitize their immediate living areas on a daily basis. In response to COVID-19,
13 detainees are provided access to extra cleaning supplies and disinfectant chemicals to clean
14 their cells/immediate living areas.

15 112. Detainees are also provided HDQC2 to sanitize common-area equipment such
16 as tables, telephones, and kiosks before and after they use it.

17 113. Any allegation that detainees are not provided sufficient chemicals and other
18 supplies to clean and disinfect their living areas and high-touch common surfaces, or that
19 they are required to clean these areas using their personal soap and/or shampoo/body wash,
20 is false. Each pod has a cleaning closet with mops, brooms, towels, and cleaning and
21 disinfecting supplies such as HDQC2. Spray bottles containing these chemicals are
22 available for detainee use, and can be refilled as needed from five-gallon jugs kept in the
23 cleaning closets.

24 114. To ensure that regular cleaning and disinfecting measures are taking place,
25 the facility is divided into zones, and each zone is assigned a staff supervisor who is tasked
26 with tracking these activities on a log. This includes spraying showers, tables, door handles,
27 knobs, handrails, push buttons, intercoms, workout equipment, toilets, and shelves with
28 HDQC2, wiping telephones and kiosks with towels sprayed with HDQC2, and mopping

1 dayroom floors and hallways with HDQC2. Detainees performing these tasks are given
2 masks and gloves. Staff are also required to spray the staff restroom, door handles, and hard
3 surfaces in their offices with HDQC2, and to use a towel sprayed with HDQC2 to wipe
4 down telephones, keyboards, computers, and other equipment.

5 115. Additionally, each housing pod has 10-20 detainee pod porters who are
6 assigned to clean the common areas at different times during the day. These porters clean
7 showers, doors handles, floors, tables, microwaves, and anything else that gets touched on
8 a regular basis with HDQC2. As a result of these activities, high-touch hard surfaces in the
9 housing units are cleaned and disinfected at least once per hour.

10 116. In addition, employee time clocks have been adjusted so that employees are
11 no longer required to use their fingerprints to gain entry to the facility; only their
12 identification cards are required for entry and identification purposes. This measure
13 decreases solid surfaces touched by a volume of employees and thus decreases COVID-19
14 exposure risk.

15 117. All detainee mattresses are disinfected between uses by different individuals.

16 118. All library books delivered/retrieved from the housing pods are disinfected
17 (as is the library cart). The same goes for the carts used to deliver commissary items and
18 meals. Detainees have access to the law library via electronic kiosks in the housing pods.
19 Kiosks are disinfected frequently, and after each use.

20 119. Detainee laundry is cleaned in commercial washers and dryers at the required
21 temperatures according to American Correctional Association standards. Detainees place
22 their laundry in personal laundry bags that are collected and taken to the in-unit laundry
23 facilities. Detainees who work in the laundry facilities wear masks and gloves, and are
24 trained not to shake laundry out so as not to distribute germs into the air, and to ensure the
25 laundry is dried completely.

26 120. All medical personnel clean and disinfect their areas after seeing a detainee,
27 ensuring that all medical equipment is cleaned and disinfected, as well.

28

1 121. When cleaning an area where a confirmed COVID-19 individual was housed,
2 the person tasked with cleaning must wear full PPE, including an N-95 mask. CoreCivic
3 has provided Environmental Cleaning and Disinfection Recommendations as a guidance
4 tool when cleaning an area where a suspected or confirmed person with a case of COVID-
5 19 has been housed.

6 122. Any trash coming out of units where COVID-19 positive detainees are
7 cohorted or quarantined is treated as medical waste and disposed of accordingly.

8 123. CAFCC facility transport vehicles are also subject to enhanced cleaning and
9 disinfecting procedures to include use of antiviral cleaning agents both before and after each
10 transport. All transportation officers must practice appropriate hand-washing before and
11 after transport. Both transport staff and detainees wear masks during transport.

12 **Restrictive Housing Units**

13 124. The RHU houses detainees in administrative or disciplinary segregation. Each
14 cell has a solid cell door with a window and food port, double bunk, toilet, and sink.⁷

15 125. Detainees in the RHU are housed individually as much as possible, although
16 detainees are sometimes housed with cellmates even during the current pandemic to ensure
17 that adequate space remains available in the RHU for use as overflow cohort or quarantine
18 housing, or for RHU placements necessitated by serious disciplinary infractions. For safety
19 and security reasons, any detainees who must be housed with a cellmate are housed only
20 with detainees from the same jurisdiction and of similar custody levels.

21 126. Additionally, detainees assigned to the RHU typically remain in their cells for
22 up to 23 hours per day and have limited interaction with other detainees, which means they
23 are already in a semi-quarantined state.

24
25 ⁷ At times, CAFCC has been required to triple-bunk detainees as an overflow
26 capacity measure. As such, some double-occupancy cells have a third bunk in them.
27 Because CAFCC is currently at only 68% of its design capacity, however, no detainees—
28 in the RHU or elsewhere in the facility—are triple-bunked currently, and many of them are
housed individually.

1 127. Detainees in the RHU are provided with at least one hour of recreation per
2 day, five days per week, and typically recreate alone in secure single-occupancy enclosures.
3 Detainees in the RHU receive all meals in their cells.

4 128. Staff perform checks of detainees in the RHU every 30 minutes on an
5 irregular schedule. Additionally, medical staff make rounds twice each day (i.e., once per
6 12-hour shift), and mental health staff make daily rounds. Detainees are also given the
7 opportunity to participate in weekly Segregation Committee meetings.

8 129. Like general population detainees, detainees in the RHU have been provided
9 with paper surgical masks.

10 130. All RHU detainees have been educated on appropriate hand-washing,
11 hygiene, and cleanliness per CDC Interim Guidance. In addition, detainee pod porters
12 assigned to this unit have undertaken enhanced cleaning practices as described above, and
13 conduct deep cleanings of the unit on a regular basis. RHU detainees are also provided with
14 cleaning/disinfecting supplies as described above to clean their cells.

15 **Conditions of Confinement in USMS Detainee Housing Pods**

16 131. Plaintiffs are currently assigned to the following locations: Pods FG, GC,
17 1100A, 1100E, and 900F. Unit 900 is the RHU.

18 132. Again, the dayroom areas of these pods are large, and allow ample space for
19 detainees to socially distance themselves from each other.

20 133. Detainees in these pods—as in all pods throughout the facility—are regularly
21 advised of the importance of wearing face masks and social distancing when outside of their
22 cells during Town Hall Meetings and everyday interactions with staff.

23 134. All facility-wide COVID-19 response operations, including but not limited to
24 PPE requirements for staff, provision of medical care, provision of educational postings and
25 frequent Town Hall Meetings, provision of face masks to detainees, provision of soap and
26 cleaning/disinfecting supplies to detainees, social distancing opportunities, enhanced
27 sanitation practices, meal service, laundry service, commissary service, library service, and
28

1 legal visitation as described above are in place for Pods FG, GC, 1100A, 1100E, and 900F
2 as well.

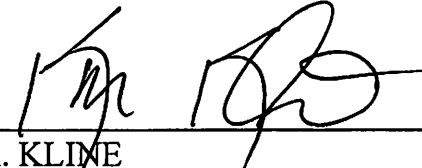
3 **Detainee Lucero-Gonzalez**

4 135. On August 7, 2020, Detainee Lucero-Gonzalez was sentenced to time served
5 in her criminal matter.

6 136. On August 8, 2020, Detainee Lucero-Gonzalez was released to ICE custody
7 and transferred from CAFCC. She is no longer at the facility.

8 I declare under penalty of perjury under the laws of the United States and the State
9 of Arizona that the foregoing is true and correct to the best of my knowledge.

10 EXECUTED this 10th day of August, 2020, in Florence, Arizona.

11
12 
13 _____
14 K. KLINE

15 3752897.1

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EXHIBIT B

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

United States of America

v.

Claudia Romero-Lorenzo

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

No. CR-20-00171-001-TUC-JGZ (EJM)

Jordan Perry Malka (FPD)

Attorney for Defendant

USM#: 23350-508

ICE# A079658357

THE DEFENDANT ENTERED A PLEA OF guilty on 1/15/2020 to the Indictment.

ACCORDINGLY, THE COURT HAS ADJUDICATED THAT THE DEFENDANT IS GUILTY OF THE FOLLOWING OFFENSE(S): violating Title 8, U.S.C. §1326(a), Reentry of Removed Alien, with sentencing enhancement pursuant to Title 8, U.S.C. §1326(b)(1), a Class C Felony offense, as charged in the Indictment.

IT IS THE JUDGMENT OF THIS COURT THAT the defendant is committed to the custody of the Bureau of Prisons for a term of **TEN (10) MONTHS**, with credit for time served. Upon release from imprisonment, the defendant shall be placed on supervised release for a term of **THIRTY-SIX (36) MONTHS**.

CRIMINAL MONETARY PENALTIES

The defendant shall pay to the Clerk the following total criminal monetary penalties:

SPECIAL ASSESSMENT: REMITTED FINE: WAIVED RESTITUTION: N/A

The Court finds the defendant does not have the ability to pay a fine and orders the fine waived.

On motion of the Government, the special assessment is REMITTED.

SUPERVISED RELEASE

It is ordered that while on supervised release, the defendant must comply with the mandatory and standard conditions of supervision as adopted by this court, in General Order 17-18, which incorporates the requirements of USSG §§ 5B1.3 and 5D1.2. Of particular importance, the defendant must not commit another federal, state, or local crime during the term of supervision. Within 72 hours of sentencing or release from the custody of the Bureau of Prisons the defendant must report in person to the Probation Office in the district to which the defendant is released. The defendant must comply with the following conditions:

MANDATORY CONDITIONS

- 1) You must not commit another federal, state or local crime.
- 2) You must not unlawfully possess a controlled substance. The use or possession of marijuana, even with a physician's certification, is not permitted.
- 3) You must refrain from any unlawful use of a controlled substance. The use or possession of marijuana, even with a physician's certification, is not permitted. Unless suspended by the Court, you must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

STANDARD CONDITIONS

- 1) You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of sentencing or your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
- 2) After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
- 3) You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
- 4) You must answer truthfully the questions asked by your probation officer.
- 5) You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
- 6) You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
- 7) You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.

- 8) You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- 9) If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
- 10) You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
- 11) You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
- 12) If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
- 13) You must follow the instructions of the probation officer related to the conditions of supervision.

SPECIAL CONDITIONS

The following special conditions are in addition to the conditions of supervised release or supersede any related standard condition:

- 1) If deported, you must not re-enter the United States without legal authorization.

THE DEFENDANT IS ADVISED OF DEFENDANT'S RIGHT TO APPEAL BY FILING A NOTICE OF APPEAL IN WRITING WITHIN 14 DAYS OF ENTRY OF JUDGMENT.

The Court may change the conditions of probation or supervised release or extend the term of supervision, if less than the authorized maximum, at any time during the period of probation or supervised release. The Court may issue a warrant and revoke the original or any subsequent sentence for a violation occurring during the period of probation or supervised release.

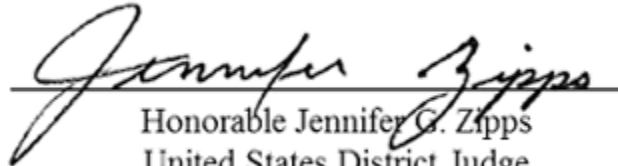
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CR-20-00171-001-TUC-JGZ (EJM)
USA vs. Claudia Romero-Lorenzo

The Court orders commitment to the custody of the Bureau of Prisons.

Date of Imposition of Sentence: **Monday, July 20, 2020**

Dated this 20th day of July, 2020.


Honorable Jennifer G. Zipp
United States District Judge

RETURN

I have executed this Judgment as follows:

_____ , the institution
defendant delivered on _____ to _____ at _____
designated by the Bureau of Prisons with a certified copy of this judgment in a Criminal case.

United States Marshal

By:

Deputy Marshal

EXHIBIT C

EXHIBIT C



MENU

Media Statement

CoreCivic Statement on COVID-19 Prevention

CoreCivic is working hard to protect our employees, those entrusted to our care, and our communities during the COVID-19 pandemic. We have a Coronavirus Medical Action Plan in place at each of our facilities, which we've been working on since January. This plan includes:

- Having medical staff participate in the intake process to identify those who are deemed high-risk of being infected with or contracting COVID-19;
- Isolating those who are deemed high-risk as needed; and
- Working with local and state health departments to conduct appropriate testing.

All of our facilities are actively promoting the following three health habits for inmates, detainees and residents, as well as staff: regular hand hygiene, respiratory etiquette (coughing or sneezing into a sleeve or tissue), and avoiding touching one's face. We also encourage the practice of social distancing for all individuals within our facilities.

Our health services administrators cooperate fully with local and state health departments, and our protocols mirror local, state, and federal recommendations. Our plan and practices build on the extensive work we do every day to run clean, healthy and safe facilities. We appreciate the hard work and dedication of all our medical staff during this time.

We have asked all of our employees to help prevent the spread of COVID-19 and other respiratory diseases by adhering to the following recommendations:

- Avoid close contact with people who are sick.
- Avoid touching your eyes, nose, and mouth with unwashed hands.
- Stay home when you are sick.
- Cover your cough or sneeze with a tissue, then throw the tissue in the trash.
- Clean and disinfect frequently touched objects and surfaces using a regular household cleaning spray or wipe.

- Follow the CDC's recommendations for using a facemask.
- Wash your hands often with soap and water for at least 20 seconds, especially after going to the bathroom; before eating; and after blowing your nose, coughing, or sneezing.

Screening

All employees are screened upon entering a CoreCivic facility. Procedures are specific to correctional and detention facilities, designed to prevent the introduction and spread of the COVID-19 virus. These steps include answering a screening questionnaire related to symptoms of infection, and a safe temperature check.

Social Distancing

Staff routinely encourage appropriate social distancing and model that behavior for those in our care. Social distancing is encouraged through regular town hall meetings, posted flyers, information presented over the closed circuit television system, and the routine instruction of staff all serve to encourage those known effective steps to prevent the transmission of the COVID-19 virus.

Cleaning and Disinfecting Practices

In all CoreCivic facilities, staff adhere to the CDC recommendations for cleaning and disinfection during the COVID-19 response. This will include cleaning and disinfecting surfaces, objects and shared equipment that are frequently touched or used by staff members and those entrusted to our care. Our facilities use commercial cleaners and EPA-registered disinfectants that are effective against the virus that causes COVID-19, following label instructions to ensure their safe and effective use. We have adequate supplies to support these intensified cleaning and disinfecting practices

Personal Protective Equipment (PPE)

Consistent with Centers for Disease Control and Prevention (CDC) recommendations, face masks are provided to all staff and those in our care. Disposable gloves are readily available for staff conducting searches and handling property. Staff working at the front lobby screening sites wear personal protective equipment (PPE).

Work for CoreCivic

Join our team of corrections professionals who are dedicated to changing lives and serving communities.

[Learn more](#)

Giving Back

We believe in giving back to our communities and providing economic value to our employees, government partners, communities and investors.

[Learn more](#)

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Community

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Reentry

Home

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Investors

Facility Locator

Contact

Employee Access

Careers

Address:

5501 Virginia Way, Suite 110
Brentwood, TN 37027

Phone:

615-263-3000

Fax:

615-263-3140

Fax (for employment verification only):

615-242-5826

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EXHIBIT D

EXHIBIT D



How CoreCivic is Managing COVID-19

For more than 35 years, CoreCivic has been a valued partner for government when it comes to public safety. During that time, we've implemented industry best practices to handle the potential spread of infectious diseases. Here's what CoreCivic is doing to keep our employees and all those in our care safe from COVID-19.



- Implemented current guidelines from the CDC and World Health Organization for COVID-19 at all CoreCivic facilities
- Revised policies and procedures to include best practices for the prevention and handling of novel coronavirus
- Purchased COVID-19 testing kits
- Communicated best practices for personal hygiene to prevent the spread of the disease
- Urged employees to stay home if they are ill and expanded PTO policies for sick employees or those caring for ill family members
- Developed plan to separate high-risk individuals in our care who are more susceptible to COVID-19
- Worked closely with our government partners to suspend visitation at facilities as necessary
- Secured additional stores of personal protective equipment
- Activated our Emergency Operations Center to provide real-time support to facilities and monitor the impacts of the pandemic on our organization

As a reminder

- All those in our care have access to around-the-clock medical care
- Our facilities are well-staffed and trained to contain or treat this virus if necessary
- We are in constant communication with our government partners and local, state, and federal health agencies as we work to keep our employees and those in our care safe and healthy

EXHIBIT E

EXHIBIT E



Frequently Asked Questions Regarding COVID-19

1. Has visitation at my loved one's facility been suspended?

In an effort to prevent the spread of coronavirus, many of our Government Partners have decided to halt visitations temporarily until the significant risk has passed. We have provided a list to each facility's updated visitation policy [here](#).

2. How can I stay in contact with my friend or family member if visitation is suspended?

Telephone calls will not be affected by changes in visitation policy. Review the facility visitation policy [here](#) to learn what is and is not permitted at this time.

3. Are facilities on lockdown due to coronavirus?

No. Facilities are not locked down at this time due to coronavirus.

4. Do the individuals at CoreCivic facilities have access to hand washing supplies?

Yes. Soap, washing facilities, and other supplies are available for staff and inmates/detainees/residents to use often.

5. How is CoreCivic working to prevent the spread of COVID-19?

We are continuously educating staff and those in our care about the best prevention measures recommended by the CDC. Additionally, we have increased the disinfecting of high touch areas in our facilities and are adhering to updated visitation policies mandated by our government partners. We continue to monitor the situation and will adjust as necessary to protect the wellbeing of everyone in our care.

6. How will CoreCivic address coronavirus in a facility?

Each of our facilities has a comprehensive plan in place to address coronavirus which includes processes to: detect and track disease, collect, analyze and report data on individuals exhibiting signs of illness; and separate the sick from the well. All of our facilities are actively promoting the following recommended prevention habits: regular hand hygiene, respiratory etiquette (coughing or sneezing into a sleeve or tissue), and avoiding touching one's mouth, nose, or eyes. Our health services administrators cooperate fully with local and state health departments and our protocols mirror local, state and federal recommendations.