

Appendix

Letters to local Public Health Departments & Responses

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September 25, 2020

Delivered Via Email

Yuba County Public Health Department
5730 Packard Avenue, Suite 100 Marysville, CA 95901

Phuong Luu, MD, MHS, FACP Bi-County Health Officer Yuba County and Sutter County
pluu@co.yuba.ca.us

**Re: Request for Information and Meeting re COVID-19 at the Yuba
County Jail**

Dear Dr. Luu:

We are contacting your office with respect to a public health concern that presents a unique and ever-growing challenge to our community during the COVID-19 pandemic, namely the threat of COVID-19 at the Yuba County jail, and the state of health care in this facility.

The Yuba County jail presents a unique challenge related to the outbreak of COVID-19 in state and local facilities as it is the only local county jail in the entire state which houses immigrants in ICE custody.

We have heard ongoing reports of terrible conditions at the Yuba County Jail, and are particularly interested in how this facility is upholding standards it agreed to when it contracted with Immigration and Customs Enforcement (ICE) to house civilly detained immigrants in their facility.

The day to day operations of the Yuba County Jail are under the supervision of the local sheriff, and the facility itself is under the jurisdiction of the local public health department. While we very clearly understand immigrants in federal custody are subject to different jurisdictional questions and considerations as compared to the individuals in local jail custody, we are also aware that county jails that have contracts with ICE are subject to certain mandatory requirements¹, including but not limited to the following:

¹ ICE ERO COVID-19 Pandemic Response Requirements (Version 3.0, July 28, 2020)
<https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>

- Each facility should “comply with current and future plans implemented by federal, state or local authorities addressing specific public health issues including communicable disease reporting requirements.”²
- Each facility should actively engage with local health departments to understand in advance which public health entity has jurisdiction over public health measures for COVID-19 in the facility. ³
- Each facility must develop a COVID-19 mitigation plan. Administrators should plan and prepare for COVID-19 by “[c]oordinating with public health and correctional partners.” As well as “[i]dentify points of contact in relevant state, local, tribal, and/or territorial public health departments before cases develop.”⁴

These requirements apply to the facility as a whole, and it is the responsibility of the operator to ensure that they are meeting these standards.

In addition to the mandatory requirements related to public health, ICE has issued broad requirements related to the day to day operations of these facilities, including requirements related to health and safety in these facilities. Based on reports in the press and by those detained inside these facilities, it does not appear that the Yuba County Jail is complying with these safety requirements in their daily operations.

In order to better evaluate compliance with mandatory local public health requirements, we kindly request the Department’s response to the following informational inquiry:

Informational inquiry

- 1.) What, if any, coordination or collaboration has taken place between the Yuba County Jail and/or the U.S. Immigration and Customs Enforcement (“ICE”) and the Yuba County Public Health Department?
- 2.) Are you aware of or has your department requested assistance from CDPH regarding the spread of COVID-19 in the Yuba County Jail?
- 3.) Has your department been provided a copy of the COVID-19 mitigation plan for the Yuba County Jail either by ICE or the facility operator? If so, please provide a copy of that plan.
- 4.) Is your department receiving reports of confirmed COVID-19 cases from ICE or the Yuba County Jail? If so, please provide that data.

² ICE Performance-Based National Detention Standards (PBNDS) for 2008 and 2011

³ This requirement is from CDC Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities pg 5, guidance which is mandatory for all ICE detention facilities.

⁴ *Id.* at pg 6

- 5.) ICE facility operators must notify local public health agencies of any individual who is ill or isolated and is set for release “to coordinate further monitoring, if required.” Is your department being notified by ICE or facility operators about impending releases?
- 6.) Given the tangible threat to local communities posed by these vulnerable facilities, what if any plan has been developed by your department to ensure proper testing and containment of COVID-19 in these facilities by your department?
- 7.) Has your department issued any guidance regarding COVID-19 that has been shared with these facilities?
- 8.) Do you believe the Yuba County Jail is currently in compliance with local public health orders and requirements?
- 9.) How can individuals detained at the Yuba County Jail communicate directly with the Department of Public Health in order to file complaints regarding their health and safety?

In addition to a written response to the above inquiry, we request an urgent meeting to discuss the ever-growing crisis at the Yuba County Jail and how we can partner to protect the health and safety of staff, individuals presently detained at the facility, and our community at large.

Sincerely,

Hamid Yazdan Panah
Immigrant Defense Advocates

The County of Yuba

OFFICE OF THE COUNTY COUNSEL

915 8th Street, Suite 111
Marysville, California 95901
Phone: (530) 749-7565
Fax: (530) 749-7513



MICHAEL J. CICOZZI
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JOSEPH F. LARMOUR
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AMY E. CARLSON
DEPUTY COUNTY COUNSEL

ANASTASIA M. SULLIVAN
DEPUTY COUNTY COUNSEL

ERIKA J. STEDMAN
ADMINISTRATIVE SERVICES OFFICER

October 5, 2020

Hamid Yazdan Panah
Immigrant Defense Advocates
Sent via email only to: hamid@imadvocates.org

Re: Your Public Records Act Request to Yuba County

Dear Mr. Panah,

Your correspondence to Dr. Phuong Luu, Bi-County Health Officer, dated September 25, 2020 is being treated as a Public Records Act request.

This letter serves as Yuba County's ("the County") initial response, under California Government Code §§ 6253(c) and 6255(b), to your Public Records Act request where you seek records from the County regarding the County's response to the COVID-19 pandemic at the Yuba County Jail.

Please note that the County will not produce privileged records or documents that are otherwise exempt from disclosure pursuant to California Government Code section 6254(k), including, but not limited to, the deliberative process privilege; preliminary notes, drafts and memoranda exemption (Gov. Code §6254(a)); investigative records (Gov. Code §6254(f)); attorney-client privilege and/or attorney work product (Gov. Code §6254(k)); official information privilege (Evid. Code §1040; Gov. Code §6254(k)); permit applicant's personal financial data information (Gov. Code § 6254(n)); and the public interest exemption (Gov. Code §§ 6254(a); 6255). Further, as we gather the records for production, we may discover other applicable privileges or exemptions or both under Government Code sections 6254, 6255, 6256, or other applicable state or federal laws, and we reserve any and all rights to assert such privileges or exemptions at any time.

The County has identified and is in possession of records that may be potentially responsive to your request. I anticipate these records will be made available for inspection/copying on a rolling basis beginning November 9, 2020, and will continue on a rolling basis as the County continues to compile, review, and redact as necessary.

If you would like to obtain printed copies of the requested records, you will be required to pay the County's copy charge of \$.25 per black and white page (8 ½ by 11)/\$1.00 per color page (8 ½ by 11), per Government Code Section 6253(b) and Title 13, section 13.20.100 of the Yuba County Ordinance Code.

Should the requested records be available in electronic format, we will forward them to you via email. We will send any responsive records to hamid@imadvocates.org unless you instruct us otherwise. However, copying charges may still be necessary for certain digitally-scanned documents. We will notify you if there are any anticipated costs.

Mr. Hamid Yazdan Panah
Page 2 of 2
October 5, 2020

If you have any further questions or concerns, please do not hesitate to contact me directly either by e-mail at asullivan@co.yuba.ca.us or by telephone at (530) 749-7565.

Sincerely,
Yuba County Counsel's Office



Anastasia M. Sullivan
Deputy County Counsel



August 24, 2020

Delivered Via Email

Kern County Public Health Services Department
Matthew Constantine, Director of Public Health Services
1800 Mt. Vernon Avenue
Bakersfield, CA 93306

**Re: Request for Information and Meeting re COVID-19 at the Mesa Verde
Detention Facility**

Dear Mr. Constantine:

We are contacting your office with respect to a public health concern that presents a unique and ever-growing challenge to our community during the COVID-19 pandemic, namely the spread of COVID-19 at the Mesa Verde Detention Facility (“Mesa Verde”).

One of the six indicators put forth by Governor Newsom’s plan to reopen the state, is the ability to prevent COVID-19 outbreaks in facilities which are vulnerable to infection, including detention facilities.¹ However, our understanding is that no such plan has been developed by the state for this facility.

At present, California is home to four privately operated civil detention facilities that hold up to 5,000 individuals at any given time, with future plans to expand to as many as 7,000. To date there have been COVID-19 infections reported at each of these facilities, with an outbreak of over 160 individuals occurring at the Otay Mesa detention facility that was reportedly the largest in the country.² Currently at Mesa Verde, more than 50% of individuals have tested positive for COVID-19, with continued increase in positive cases and tests still pending for some individuals.³

A study developed by the Nature Public Health Emergency Collection on the spread of COVID-19 in these facilities estimates that coronavirus outbreaks among a minimum of 65 ICE facilities

¹ See California’s Roadmap to Modify the Stay-at-Home Order, pg 7

² Otay Mesa COVID-19 Outbreak Now the Largest At A US Immigration Facility
<https://www.kpbs.org/news/2020/apr/14/otay-mesa-detention-center-now-largest-immigration/>

³ <https://www.desertsun.com/story/news/politics/immigration/2020/08/16/judge-orders-covid-19-tests-all-detainees-bakersfield-mesa-verde-ice/5595819002/>



(59%) would overwhelm ICU beds within a 10-mile radius and outbreaks among a minimum of 8 ICE facilities (7%) would overwhelm local ICU beds within a 50-mile radius over a 90-day period, provided every ICU bed was made available for sick detainees.⁴

While we very clearly understand that Mesa Verde is used by the federal government to house immigrants, we are also aware that privately run facilities are subject to certain mandatory requirements⁵, including but not limited to the following:

- Each facility should “comply with current and future plans implemented by federal, state or local authorities addressing specific public health issues including communicable disease reporting requirements.”⁶
- Each facility should actively engage with local health departments to understand in advance which public health entity has jurisdiction over public health measures for COVID-19 in the facility.⁷
- Each facility must develop a COVID-19 mitigation plan. Administrators should plan and prepare for COVID-19 by “[c]oordinating with public health and correctional partners.” As well as “[i]dentify points of contact in relevant state, local, tribal, and/or territorial public health departments before cases develop.”⁸

In addition to the mandatory requirements related to public health, ICE has issued broad requirements related to the day to day operations of these facilities, including requirements related to health and safety in these facilities. Based on reports in the press and by those detained inside these facilities, it appears that private corporations are routinely violating the health and safety requirements for these facilities in their daily operations. Through pending litigation, it was discovered that facility officials “deliberately limited testing” at the facility, therefore endangering the lives of individuals inside the facility and our surrounding community, including having to transport at least 4 individuals to local hospitals.⁹ Mesa Verde’s callous disregard for human life in and out of the facility requires local monitoring and enforced accountability by the county’s public health department. Failing to do so will continue to have grave consequences on the lives of families of Mesa Verde staff, and thereafter any person they come in contact with, leading to a continued depletion of limited county health resources.

⁴ Modeling COVID-19 and Its Impacts on U.S. Immigration and Customs Enforcement (ICE) Detention Facilities, 2020 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7228433/>

⁵ ICE ERO COVID-19 Pandemic Response Requirements (Version 3.0, July 28, 2020) <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>

⁶ ICE Performance-Based National Detention Standards (PBNDS) for 2008 and 2011

⁷ This requirement is from CDC Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities pg 5, guidance which is mandatory for all ICE detention facilities.

⁸ *Id.* at pg 6

⁹ <https://www.latimes.com/california/story/2020-08-06/amid-coronavirus-outbreak-at-bakersfield-immigration-facility-emails-show-ice-deliberately-limited-testing>



We believe that violations of mandatory requirements by private corporations warrant oversight and regulation. We would underscore the fact that this facility is operated by a private actor and not the federal government. Clear legal authority from the U.S. Supreme Court has held that private operators who act in violation of their federal contracts or mandatory requirements are violating the law and should be subject to liability by state and local authorities.¹⁰

In order to better evaluate private operator compliance with mandatory local public health requirements, we kindly request the Department's response to the following informational inquiry:

Informational inquiry

1. What, if any, coordination or collaboration has taken place between private detention facility operators and/or the U.S. Immigration and Customs Enforcement ("ICE") and the Kern County local health department?
2. Are you aware of or has your department requested assistance from CDPH regarding the spread of COVID-19 in the Mesa Verde detention facility?
3. Has your department been provided a copy of the COVID-19 mitigation plan for the Mesa Verde detention facility either by ICE or the facility operator? If so, please provide a copy of that plan.
4. Is your department receiving reports of confirmed COVID-19 cases from ICE or the detention facility operator? If so, please provide that data.
5. ICE facility operators must notify local public health agencies of any individual who is ill or isolated and is set for release "to coordinate further monitoring, if required." Is your department being notified by ICE or facility operators about impending releases?
6. Given the tangible threat to local communities posed by these vulnerable facilities, what if any plan has been developed by your department to ensure proper testing and containment of COVID-19 in these facilities by your department?
7. Has your department issued any guidance regarding COVID-19 that has been shared with these facilities?
8. Do you believe ICE detention facilities are currently in compliance with local public health orders and requirements?

¹⁰ Private prison corporations acting as federal contractors have enjoyed immunity from liability by claiming derivative sovereign immunity, however the Supreme Court has ruled that sovereign immunity does not apply to federal contractors who violate the express terms of a government contract or directive. "When a contractor violates both federal law and the government's express instructions... there is no immunity". *Campbell-Ewald Co. v. Gomez*, 136 S. Ct. 663, 193 L. Ed. 2d 571 (2016), as revised (Feb. 9, 2016).



In addition to a written response to the above inquiry, we request an urgent meeting to discuss the ever-growing crisis at Mesa Verde and how we can partner to protect the health and safety of staff, individuals presently detained at the facility, and our community at large. Given the current public health crisis, we respectfully request a seven (7) day timely response to the above inquiry.

Sincerely,

The Rapid Response Network of Kern

cc: Melissa Hurtado, State Senator, District 14
Rudy Salas, Assemblymember, District 32
Leticia Perez, Kern County Board of Supervisors, Chairwoman
Kathleen Krause, Clerk of the Board of Supervisors

September 9, 2020

Ms. Rosa Lopez,

As you have requested in a letter dated August 24, 2020, please find responses to your questions regarding the Mesa Verde detention facility. If I can be of any further assistance please let me know.

1. What, if any, coordination or collaboration has taken place between private detention facility operators and/or the U.S. Immigration and Customs Enforcement ("ICE") and the Kern County local health department?

As required, the contracted Mesa Verde medical facility is reporting the results of COVID-19 testing of inmates to Kern County Public Health. Public Health has had a few brief calls with Mesa Verde staff regarding disease control protocols, but we have not received any written documentation from the facility.

2. Are you aware of or has your department requested assistance from CDPH regarding the spread of COVID-19 in the Mesa Verde detention facility?

On August 24, 2020, Kern County Public Health and the California Department of Public Health (CDPH) met to discuss the current COVID-19 issues at Mesa Verde. CDPH is scheduling a meeting with Mesa Verde and Kern County Public Health to discuss Mesa Verde's disease control strategies and what additional resources Public Health can provide.

3. Has your department been provided a copy of the COVID-19 mitigation plan for the Mesa Verde detention facility either by ICE or the facility operator? If so, please provide a copy of that plan.

No, a mitigation plan has not been provided to Kern County Public Health.

4. Is your department receiving reports of confirmed COVID-19 cases from ICE or the detention facility operator? If so, please provide that data.

Public Health is receiving lab reports for COVID-19 positive inmates, however disclosing these medical records would violate the privacy rights of the inmates.

5. ICE facility operators must notify local public health agencies of any individual who is ill or isolated and is set for release "to coordinate further monitoring if required." Is your department being notified by ICE or facility operators about impending releases?

No, Public Health has not been notified of impending releases.

6. Given the tangible threat to local communities posed by these vulnerable facilities, what if any plan has been developed by your department to ensure proper testing and containment of COVID-19 in these facilities by your department?

Kern County Public Health does not have jurisdiction within a federally contracted detention facility.

7. Has your department issued any guidance regarding COVID-19 that has been shared with these facilities?

Yes, Kern County Public Health has issued various CDC guidance documents to the Mesa Verde detention facility to include cleaning and disinfecting, a COVID-19 employer flow chart, essential worker guidance, COVID-19 testing guidance and duration of isolation and precautions for adults with COVID-19

8. Do you believe ICE detention facilities are currently in compliance with local public health orders and requirements?

Currently, the Kern County Public Health Department does not have Health Officer Orders that apply to Mesa Verde.

Sincerely,



Matthew Constantine
Director of Public Health Services



September 24, 2020

Delivered Via Email

San Diego County Public Health Department
Dr. Wilma Wooten, Public Health Officer
Health and Human Services Agency
County of San Diego
1600 Pacific Highway, Room 206
San Diego, CA 92101

Re: Request for Information and Meeting re COVID-19 at the Otay Mesa Detention Center

Dear Dr. Wooten:

We are contacting your office with respect to a public health concern that presents a unique and ever-growing challenge to our community during the COVID-19 pandemic, namely the spread of COVID-19 at the Otay Mesa Detention Center.

One of the six indicators put forth by Governor Newsom's plan to reopen the state, is the ability to prevent COVID-19 outbreaks in facilities which are vulnerable to infection, including detention facilities.¹ However, our understanding is that no such plan has been developed by the state for this facility.

At present, California is home to four privately operated civil detention facilities that hold up to 5,000 individuals at any given time, with future plans to expand to as many as 7,000. To date there have been COVID-19 infections reported at each of these facilities, with an outbreak of over 160 individuals occurring at the Otay Mesa Detention Center that was reportedly the largest in the country.²

A study developed by the Nature Public Health Emergency Collection on the spread of COVID-19 in these facilities estimates that coronavirus outbreaks among a minimum of 65 ICE facilities (59%) would overwhelm ICU beds within a 10-mile radius and outbreaks among a minimum of 8 ICE facilities (7%) would overwhelm local ICU beds within a 50-mile radius over a 90-day period, provided every ICU bed was made available for sick detainees.³

¹ See California's Roadmap to Modify the Stay-at-Home Order, pg 7

² Otay Mesa COVID-19 Outbreak Now the Largest At A US Immigration Facility
<https://www.kpbs.org/news/2020/apr/14/otay-mesa-detention-center-now-largest-immigration/>

³ Modeling COVID-19 and Its Impacts on U.S. Immigration and Customs Enforcement (ICE) Detention Facilities, 2020 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7228433/>

While we very clearly understand that the Otay Mesa Detention Center is used by the federal government to house immigrants, we are also aware that privately run facilities are subject to certain mandatory requirements⁴, including but not limited to the following:

- Each facility should “comply with current and future plans implemented by federal, state or local authorities addressing specific public health issues including communicable disease reporting requirements.”⁵
- Each facility should actively engage with local health departments to understand in advance which public health entity has jurisdiction over public health measures for COVID-19 in the facility. ⁶
- Each facility must develop a COVID-19 mitigation plan. Administrators should plan and prepare for COVID-19 by “[c]oordinating with public health and correctional partners.” As well as “[i]dentify points of contact in relevant state, local, tribal, and/or territorial public health departments before cases develop.”⁷

In addition to the mandatory requirements related to public health, ICE has issued broad requirements related to the day to day operations of these facilities, including requirements related to health and safety in these facilities. Based on reports in the press and by those detained inside these facilities, it appears that private corporations are routinely violating the health and safety requirements for these facilities in their daily operations.

We believe that violations of mandatory requirements by private corporations warrant oversight and regulation. We would underscore the fact that this facility is operated by a private actor and not the federal government. Clear legal authority from the U.S. Supreme Court has held that private operators who act in violation of their federal contracts or mandatory requirements are violating the law and should be subject to liability by state and local authorities.⁸

In order to better evaluate private operator compliance with mandatory local public health requirements, we kindly request the Department’s response to the following informational inquiry:

⁴ ICE ERO COVID-19 Pandemic Response Requirements (Version 3.0, July 28, 2020) <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>

⁵ ICE Performance-Based National Detention Standards (PBNDS) for 2008 and 2011

⁶ This requirement is from CDC Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities pg 5, guidance which is mandatory for all ICE detention facilities.

⁷ *Id.* at pg 6

⁸ Private prison corporations acting as federal contractors have enjoyed immunity from liability by claiming derivative sovereign immunity, however the Supreme Court has ruled that sovereign immunity does not apply to federal contractors who violate the express terms of a government contract or directive. "When a contractor violates both federal law and the government’s express instructions... there is no immunity". *Campbell-Ewald Co. v. Gomez*, 136 S. Ct. 663, 193 L. Ed. 2d 571 (2016), as revised (Feb. 9, 2016).

Informational inquiry

- 1.) What, if any, coordination or collaboration has taken place between private detention facility operators and/or the U.S. Immigration and Customs Enforcement (“ICE”) and the San Diego local health department?
- 2.) Are you aware of or has your department requested assistance from CDPH regarding the spread of COVID-19 in the Otay Mesa Detention Center?
- 3.) Has your department been provided a copy of the COVID-19 mitigation plan for the Otay Mesa Detention Center either by ICE or the facility operator? If so, please provide a copy of that plan.
- 4.) Is your department receiving reports of confirmed COVID-19 cases from ICE or the detention facility operator? If so, please provide that data.
- 5.) ICE facility operators must notify local public health agencies of any individual who is ill or isolated and is set for release “to coordinate further monitoring, if required.” Is your department being notified by ICE or facility operators about impending releases?
- 6.) Given the tangible threat to local communities posed by these vulnerable facilities, what if any plan has been developed by your department to ensure proper testing and containment of COVID-19 in these facilities by your department?
- 7.) Has your department issued any guidance regarding COVID-19 that has been shared with these facilities?
- 8.) Do you believe ICE detention facilities are currently in compliance with local public health orders and requirements?

In addition to a written response to the above inquiry, we request an urgent meeting to discuss the ever-growing crisis at the Otay Mesa Detention Center and how we can partner to protect the health and safety of staff, individuals presently detained at the facility, and our community at large.

Sincerely,

s/Jackie Gonzalez
Policy Director, Immigrant Defense Advocates
jackie@imadvocates.org
510-847-6247

From: [Roemmich, Joseph](#)
To: [Villasenor, Adriana](#); [McDonald, Eric](#)
Cc: [Adams, Theresa_SDSO](#); [LaRose, Christopher](#); [Lindsey, Susan](#)
Subject: RE: Testing for staff
Date: Tuesday, May 19, 2020 10:05:41 AM

copy

From: Villasenor, Adriana <Adriana.Villasenor@sdcounty.ca.gov>
Sent: Tuesday, May 19, 2020 10:03 AM
To: Roemmich, Joseph <Joseph.Roemmich@corecivic.com>; McDonald, Eric <Eric.McDonald@sdcounty.ca.gov>
Cc: Adams, Theresa_SDSO <Theresa.Adams@sdsheriff.org>; LaRose, Christopher <Christopher.LaRose@corecivic.com>; Lindsey, Susan <Susan.Lindsey@corecivic.com>
Subject: RE: Testing for staff

***** This is an EXTERNAL email. Please exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. *****

Hi Joe,

Thanks for the clarification. It is my responsibility, in my role here in Public Health, to offer the most current and effective recommendations from CDPH to help mitigate the continued spread of this communicable disease within a facility of your size and complexity. As things change and evolve, I will continue to offer tools and assistance to help mitigate, such as the identification of asymptomatic cases at the facility.

Thank you,
Adriana

From: Roemmich, Joseph <Joseph.Roemmich@corecivic.com>
Sent: Tuesday, May 19, 2020 9:44 AM
To: Villasenor, Adriana <Adriana.Villasenor@sdcounty.ca.gov>
Cc: Adams, Theresa_SDSO <Theresa.Adams@sdsheriff.org>; LaRose, Christopher <Christopher.LaRose@corecivic.com>; Lindsey, Susan <Susan.Lindsey@corecivic.com>
Subject: Re: Testing for staff

Doc-

Just so we're clear - at this point we have no intention to mass test our staff.

-Joe

Joseph M. Roemmich
Assistant Warden

Otay Mesa Detention Center
(619) 671-8702 Office
(520) 705-9865 Cell

On May 19, 2020, at 09:39, Villasenor, Adriana <Adriana.Villasenor@sdcounty.ca.gov> wrote:

***** This is an EXTERNAL email. Please exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. *****

Morning Joe,

Yes, we'd spoken about testing OMDF staff a couple weeks back. Now, they (CDPH) is more strongly urging facilities with outbreaks to employ this to get a good baseline of asymptomatic staff and residents (to help mitigate spread). I'm waiting to get word on the status of our SDPHL's ability to conduct the labs on self-collected specimens. This will make it much easier to get your staff completed, as LCDR Miranda stated his staff is not sufficient.

Nothing yet... but hoping to hear something soon.

Adriana

From: Roemmich, Joseph <Joseph.Roemmich@corecivic.com>

Sent: Tuesday, May 19, 2020 9:19 AM

To: Adams, Theresa_SDSO <Theresa.Adams@sdsheriff.org>; Villasenor, Adriana <Adriana.Villasenor@sdcounty.ca.gov>

Subject: Testing for staff

Good morning-

Lt CMDR Miranda with IHSC said that County had mentioned to him about having all of our staff get tested for COVID. I haven't seen anything on this so I wanted to check with you both. Thanks.

-Joe

Joseph M. Roemmich
Assistant Warden
Otay Mesa Detention Center
(619) 671-8702 Office
(520) 705-9865 Cell

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From: [Villasenor, Adriana](#)
To: [Roemmich, Joseph](#)
Cc: [Lindsey, Susan](#)
Subject: RE: Staff Report to SD County Public Health
Date: Wednesday, April 29, 2020 1:18:58 PM
Attachments: [Copy of Staff Report to SD County Public Health_revised.xlsx](#)

Hi Joe,

It turns out I only had one extra, the 2nd one was included in today's report.

Kindest,
Adriana

From: Roemmich, Joseph <Joseph.Roemmich@corecivic.com>
Sent: Wednesday, April 29, 2020 12:08 PM
To: Villasenor, Adriana <Adriana.Villasenor@sdcounty.ca.gov>
Cc: Lindsey, Susan <Susan.Lindsey@corecivic.com>
Subject: RE: Staff Report to SD County Public Health

That'd be fine, at least that way it'll be password protected.

-Joe

Joseph M. Roemmich
Assistant Warden
Otay Mesa Detention Center
7488 Calzada de la Fuente
San Diego, CA 92154
(619) 671-8702 Office
(520) 705-9865 Cell

From: Villasenor, Adriana <Adriana.Villasenor@sdcounty.ca.gov>
Sent: Wednesday, April 29, 2020 11:54 AM
To: Roemmich, Joseph <Joseph.Roemmich@corecivic.com>
Cc: Lindsey, Susan <Susan.Lindsey@corecivic.com>
Subject: RE: Staff Report to SD County Public Health

***** This is an EXTERNAL email. Please exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. *****

Hi Joe,

Thank you and [REDACTED]. Is there anything we can do to help mitigate spread [REDACTED]? We talk about this previously...but wanted to ask again.

How would you like me to share the names [REDACTED] that tested positive, but are not on your list? I can send you back the list with the names colored differently? I have two more than you.

Adriana

From: Roemmich, Joseph <Joseph.Roemmich@corecivic.com>
Sent: Wednesday, April 29, 2020 11:39 AM
To: Villasenor, Adriana <Adriana.Villasenor@sdcountry.ca.gov>
Cc: Lindsey, Susan <Susan.Lindsey@corecivic.com>
Subject: [WARNING : MESSAGE ENCRYPTED] Staff Report to SD County Public Health

Dr-
See attached.

21 (-5 recovered) [REDACTED] and 8 [REDACTED] (no recovered numbers provided).

-Joe

Joseph M. Roemmich
Assistant Warden
Otay Mesa Detention Center
7488 Calzada de la Fuente
San Diego, CA 92154
(619) 671-8702 Office
(520) 705-9865 Cell

(i) This e-mail and any files transmitted with it are confidential and intended solely for the use of the intended recipient(s). If you have received this e-mail in error, please notify the sender immediately and delete this e-mail and any associated files from your system. (ii) Views or opinions presented in this e-mail are solely those of the author and do not necessarily represent those of CoreCivic. (iii) The recipient should check this e-mail and any attachments for the presence of viruses. The company accepts no liability for errors or omissions caused by e-mail transmission or any damage caused by any virus transmitted by or with this e-mail. This email has been scanned for content and viruses by the Barracuda Email Security System.

Dr. Erin Gustafson, MD, MPH
Acting Public Health Officer, County of San Bernardino
351 N. Mountain View Avenue
San Bernardino, CA 92415

September 1, 2020

Re: Informational Inquiry Regarding COVID-19 at the Adelanto ICE Processing Center

Dear Dr. Erin Gustafson,

I am writing to you to follow up Human Impact Partners' May 13, 2020 letter, signed by 41 San Bernardino County health professionals and local community organizations, expressing concern regarding the spread of COVID-19 at the Adelanto ICE Processing Center.

The situation at the Adelanto ICE Processing Center continues to present a critical health issue for our community. At present, the Adelanto facility is one of four privately operated civil detention facilities in California. that hold up to 5,000 individuals at any given time, with future plans to expand to as many as 7,000. To date there have been COVID-19 infections reported at each of these facilities, with an outbreak of over 160 individuals occurring at the Otay Mesa detention facility that was reportedly the largest in the country.¹

The true scope of COVID-19 infections at the Adelanto ICE Processing Center is currently unknown. An ACLU lawsuit recently uncovered that [ICE has "banned" COVID testing at the facility](#). As a result, while 305 people detained at the Adelanto facility presented COVID-19 symptoms between March 1 and July 15, only one was actually tested.²

While we very clearly understand that the Adelanto ICE Processing Center is used by the federal government to house immigrants, we are also aware that privately run facilities are subject to certain mandatory requirements³, including but not limited to the following:

¹ Otay Mesa COVID-19 Outbreak Now the Largest At A US Immigration Facility
<https://www.kpbs.org/news/2020/apr/14/otay-mesa-detention-center-now-largest-immigration/>

² ACLU Says ICE Secretly Bans COVID-19 Testing of Adelanto Detainees
<https://www.nbclosangeles.com/news/local/aclu-says-ice-secretly-bans-covid-19-testing-of-adelanto-detainees/2411290/>

³ ICE ERO COVID-19 Pandemic Response Requirements (Version 3.0, July 28, 2020)
<https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>

- Each facility should “comply with current and future plans implemented by federal, state or local authorities addressing specific public health issues including communicable disease reporting requirements.”⁴
- Each facility should actively engage with local health departments to understand in advance which public health entity has jurisdiction over public health measures for COVID-19 in the facility. ⁵
- Each facility must develop a COVID-19 mitigation plan. Administrators should plan and prepare for COVID-19 by “[c]oordinating with public health and correctional partners.” As well as “[i]dentify points of contact in relevant state, local, tribal, and/or territorial public health departments before cases develop.”⁶

In addition to the mandatory requirements related to public health, ICE has issued broad requirements related to the day to day operations of these facilities, including requirements related to health and safety in these facilities. Based on reports in the press and by those detained inside these facilities, it appears that private corporations are routinely violating the health and safety requirements for these facilities in their daily operations.

We believe that violations of mandatory requirements by private corporations warrant oversight and regulation. We would underscore the fact that this facility is operated by a private actor and not the federal government. Clear legal authority from the U.S. Supreme Court has held that private operators who act in violation of their federal contracts or mandatory requirements are violating the law and should be subject to liability by state and local authorities.⁷

In order to better evaluate private operator compliance with mandatory local public health requirements, we kindly request the Department’s response to the following informational inquiry:

Informational inquiry

1. What, if any, coordination or collaboration has taken place between private detention facility operators and/or the U.S. Immigration and Customs Enforcement (“ICE”) and the San Bernardino County local health department?
2. Are you aware of or has your department requested assistance from CDPH regarding the spread of COVID-19 in the Adelanto detention facility?

⁴ ICE Performance-Based National Detention Standards (PBNDS) for 2008 and 2011

⁵ This requirement is from CDC Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities pg 5, guidance which is mandatory for all ICE detention facilities.

⁶ *Id.* at pg 6

⁷ Private prison corporations acting as federal contractors have enjoyed immunity from liability by claiming derivative sovereign immunity, however the Supreme Court has ruled that sovereign immunity does not apply to federal contractors who violate the express terms of a government contract or directive. "When a contractor violates both federal law and the government’s express instructions... there is no immunity". *Campbell-Ewald Co. v. Gomez*, 136 S. Ct. 663, 193 L. Ed. 2d 571 (2016), as revised (Feb. 9, 2016).

3. Has your department been provided a copy of the COVID-19 mitigation plan for the Adelanto detention facility either by ICE or the facility operator? If so, please provide a copy of that plan.
4. Is your department receiving reports of confirmed COVID-19 cases from ICE or the detention facility operator? If so, please provide that data.
5. ICE facility operators must notify local public health agencies of any individual who is ill or isolated and is set for release “to coordinate further monitoring, if required.” Is your department being notified by ICE or facility operators about impending releases?
6. Given the tangible threat to local communities posed by these vulnerable facilities, what if any plan has been developed by your department to ensure proper testing and containment of COVID-19 in these facilities by your department?
7. You stated that your department has provided written guidelines and educational materials to those facilities. Please provide more information regarding what specific guidelines and educational materials have been provided to the facility, and provide copies of those materials if possible.
8. Do you believe ICE detention facilities are currently in compliance with local public health orders and requirements?

In addition to a written response to the above inquiry, we again request an urgent meeting to discuss the ever-growing crisis at the Adelanto ICE Processing Center and how we can partner to protect the health and safety of staff, individuals presently detained at the facility, and our community at large.

Sincerely,



Lisa Knox
Immigration Managing Attorney
Centro Legal de la Raza

Informational inquiry

1. What, if any, coordination or collaboration has taken place between private detention facility operators and/or the U.S. Immigration and Customs Enforcement (“ICE”) and the San Bernardino County local health department? [San Bernardino County Public Health \(DPH\) has held conference calls with the Adelanto ICE detention facility to discuss cases. I have been in direct contact with the Assistant Health Services Administrator to ensure that DPH receives updated line lists of positive cases.](#)

2. Are you aware of or has your department requested assistance from CDPH regarding the spread of COVID-19 in the Adelanto detention facility?

[Yes, CDPH has assisted with the cases reported in the Adelanto ICE detention facility by participating on conference calls.](#)

3. Has your department been provided a copy of the COVID-19 mitigation plan for the Adelanto detention facility either by ICE or the facility operator? If so, please provide a copy of that plan.

[The COVID-19 mitigation plan for ICE facilities can be found on their website at: https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf](#)

[Official information about U.S. Immigration and Customs Enforcement’s \(ICE\) response to COVID-19 is posted at https://www.ice.gov/coronavirus. All detainees are tested for coronavirus disease 2019 \(COVID-19\) upon intake and are isolated and monitored for a 14-day period in accordance with Centers for Disease Control and Prevention \(CDC\) guidelines to ensure for the safety and health of all those in our custody. Additionally, detainees receive a comprehensive exam within 14 days of arrival at a detention facility to identify medical, mental health and dental conditions that require monitoring or treatment. A detainee with a medical condition requiring follow-up treatment will be scheduled for as many appointments as needed, including with outside medical providers or facilities, as appropriate. All ICE detainees, regardless of location, can expect timely and appropriate responses to emergent medical requests, as well as timely medical care appropriate to the anticipated length of detention. At no time during detention is a detainee denied emergent care.](#)

[ICE reviews CDC guidance daily and continues to update protocols to remain consistent with CDC guidance. The agency’s full response to COVID-19 can be viewed on the ICE.gov website.](#)

4. Is your department receiving reports of confirmed COVID-19 cases from ICE or the detention facility operator? If so, please provide that data. [Yes, there have been fourteen \(14\) reported cases in detainees, one \(1\) case reported in a staff member. The facility has performed 671 COVID tests to date.](#)

[Please visit the ICE website to see the number of cases in staff and detainees: https://www.ice.gov/coronavirus](#)

5. ICE facility operators must notify local public health agencies of any individual who is ill or isolated and is set for release “to coordinate further monitoring, if required.” Is your department being notified by ICE or facility operators about impending releases? [Not at this time; I am discussing with the Assistant Health Services Director about having the ICE facility inform Public Health about impending releases.](#)

6. Given the tangible threat to local communities posed by these vulnerable facilities, what if any plan has been developed by your department to ensure proper testing and containment of COVID-19 in these facilities by your department?

[San Bernardino County Public Health investigates cases or outbreaks in the Adelanto ICE facility and holds conference calls with the facility and CDPH to give public health response recommendations, including related to testing. As mentioned above, as Interim Health Officer, I have been in direct contact with the Assistant Health Services Administrator to ensure that DPH receives updated line lists of positive cases. DPH is closely monitoring the situation at the facility has provided a letter with guidelines and education materials to the Assistant Health Services Administrator at the Adelanto ICE facility.](#)

7. You stated that your department has provided written guidelines and educational materials to those facilities. Please provide more information regarding what specific guidelines and educational materials have been provided to the facility, and provide copies of those materials if possible. [I will provide a copy of a letter with resources that we provided to the Adelanto ICE facility.](#)

8. Do you believe ICE detention facilities are currently in compliance with local public health orders and requirements? [Yes](#)



September 24, 2020

Delivered Via Email

Imperial County Public Health Department
Janette Angulo, Director of Public Health
935 Broadway Street
El Centro, CA 92243

Re: Request for Information and Meeting re COVID-19 at the Imperial Regional Detention Facility

Dear Dir. Angulo:

We are contacting your office with respect to a public health concern that presents a unique and ever-growing challenge to our community during the COVID-19 pandemic, namely the spread of COVID-19 at the Imperial Regional Detention Facility.

One of the six indicators put forth by Governor Newsom's plan to reopen the state, is the ability to prevent COVID-19 outbreaks in facilities which are vulnerable to infection, including detention facilities.¹ However, our understanding is that no such plan has been developed by the state for this facility.

At present, California is home to four privately operated civil detention facilities that hold up to 5,000 individuals at any given time, with future plans to expand to as many as 7,000. To date there have been COVID-19 infections reported at each of these facilities, including at least 3 reported cases in the Imperial Regional Detention Facility according to ICE's own statistics.²

A study developed by the Nature Public Health Emergency Collection on the spread of COVID-19 in these facilities estimates that coronavirus outbreaks among a minimum of 65 ICE facilities (59%) would overwhelm ICU beds within a 10-mile radius and outbreaks among a minimum of 8 ICE facilities (7%) would overwhelm local ICU beds within a 50-mile radius over a 90-day period, provided every ICU bed was made available for sick detainees.³

¹ See California's Roadmap to Modify the Stay-at-Home Order, pg 7

² See <https://www.ice.gov/coronavirus>

³ Modeling COVID-19 and Its Impacts on U.S. Immigration and Customs Enforcement (ICE) Detention Facilities, 2020 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7228433/>

While we very clearly understand that the Imperial Regional Detention Facility is used by the federal government to house immigrants, we are also aware that privately run facilities are subject to certain mandatory requirements⁴, including but not limited to the following:

- Each facility should “comply with current and future plans implemented by federal, state or local authorities addressing specific public health issues including communicable disease reporting requirements.”⁵
- Each facility should actively engage with local health departments to understand in advance which public health entity has jurisdiction over public health measures for COVID-19 in the facility. ⁶
- Each facility must develop a COVID-19 mitigation plan. Administrators should plan and prepare for COVID-19 by “[c]oordinating with public health and correctional partners.” As well as “[i]dentify points of contact in relevant state, local, tribal, and/or territorial public health departments before cases develop.”⁷

In addition to the mandatory requirements related to public health, ICE has issued broad requirements related to the day to day operations of these facilities, including requirements related to health and safety in these facilities. Based on reports in the press and by those detained inside these facilities, it appears that private corporations are routinely violating the health and safety requirements for these facilities in their daily operations.

We believe that violations of mandatory requirements by private corporations warrant oversight and regulation. We would underscore the fact that this facility is operated by a private actor and not the federal government. Clear legal authority from the U.S. Supreme Court has held that private operators who act in violation of their federal contracts or mandatory requirements are violating the law and should be subject to liability by state and local authorities.⁸

In order to better evaluate private operator compliance with mandatory local public health requirements, we kindly request the Department’s response to the following informational inquiry:

⁴ ICE ERO COVID-19 Pandemic Response Requirements (Version 3.0, July 28, 2020) <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>

⁵ ICE Performance-Based National Detention Standards (PBNDS) for 2008 and 2011

⁶ This requirement is from CDC Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities pg 5, guidance which is mandatory for all ICE detention facilities.

⁷ *Id.* at pg 6

⁸ Private prison corporations acting as federal contractors have enjoyed immunity from liability by claiming derivative sovereign immunity, however the Supreme Court has ruled that sovereign immunity does not apply to federal contractors who violate the express terms of a government contract or directive. "When a contractor violates both federal law and the government’s express instructions... there is no immunity". *Campbell-Ewald Co. v. Gomez*, 136 S. Ct. 663, 193 L. Ed. 2d 571 (2016), as revised (Feb. 9, 2016).

Informational inquiry

- 1.) What, if any, coordination or collaboration has taken place between private detention facility operators and/or the U.S. Immigration and Customs Enforcement (“ICE”) and the Imperial County Public Health Department?
- 2.) Are you aware of or has your department requested assistance from CDPH regarding the spread of COVID-19 in the Imperial Regional Detention Facility?
- 3.) Has your department been provided a copy of the COVID-19 mitigation plan for the Imperial Regional Detention Facility either by ICE or the facility operator? If so, please provide a copy of that plan.
- 4.) Is your department receiving reports of confirmed COVID-19 cases from ICE or the detention facility operator? If so, please provide that data.
- 5.) ICE facility operators must notify local public health agencies of any individual who is ill or isolated and is set for release “to coordinate further monitoring, if required.” Is your department being notified by ICE or facility operators about impending releases?
- 6.) Given the tangible threat to local communities posed by these vulnerable facilities, what if any plan has been developed by your department to ensure proper testing and containment of COVID-19 in these facilities by your department?
- 7.) Has your department issued any guidance regarding COVID-19 that has been shared with these facilities?
- 8.) Do you believe ICE detention facilities are currently in compliance with local public health orders and requirements?
- 9.) How can individuals detained at the Imperial Regional Detention Facility communicate directly with the Department of Public Health in order to file complaints regarding their health and safety?

In addition to a written response to the above inquiry, we request an urgent meeting to discuss the ever-growing crisis at the Imperial Regional Detention Facility and how we can partner to protect the health and safety of staff, individuals presently detained at the facility, and our community at large.

Sincerely,

s/Jackie Gonzalez

Policy Director, Immigrant Defense Advocates

jackie@imadvocates.org

510-847-6247

Adam G. Crook
County Counsel

Eric Havens
Assistant County Counsel



County Counsel
County Administration Center
940 West Main Street, Suite 205
El Centro, CA 92243
Telephone (442) 265-1120
Fax No. (760) 353-9347
countycounsel@co.imperial.ca.us

October 19, 2020

Via Electronic Mail

Jackie Gonzalez
Immigrant Defense Advocates
jackie@imadvocates.org

RE: Public Records Act Request

Dear Ms. Gonzalez,

Below are the County of Imperial Public Health Department's ("ICPHD") responses to your public records request received on September 24, 2020:

- (1) *"What, if any, coordination or collaboration has taken place between private detention facility operators and/or the U.S. Immigration and Customs Enforcement ("ICE") and the Imperial County Public Health Department?"*

The ICPHD's Epidemiology Unit has a longstanding working relationship with the Imperial Regional Detention Facility ("IRDF") in Calexico, California. The Infection Control nurses at the IRDF make regular contact with ICPHD staff to inform them of new or suspect cases of communicable disease and to seek guidance or assistance if needed. In addition to these activities, the ICPHD's Emergency Medical Services Agency is responsible for the coordination of scarce medical and health resources, which has included the distribution of personal protective equipment for healthcare providers within the IRDF, upon request.

- (2) *"Are you aware of or has your department requested assistance from CDPH regarding the spread of COVID-19 in the Imperial Regional Detention Facility?"*

ICPHD is not aware of any request for assistance from CDPH regarding the spread of COVID-19 in IRDF.

- (3) *“Has your department been provided a copy of the COVID-19 mitigation plan for the Imperial Regional Detention Facility either by ICE or the facility operator? If so, please provide a copy of that plan.”*

Please find enclosed all records in possession of ICPHD responsive to this request.

- (4) *“Is your department receiving reports of confirmed COVID-19 cases from ICE or the detention facility operator? If so, please provide that data.”*

The California Public Records Act exempts from disclosure “personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.” Govt. Code §6254(c). Additionally, the California Public Records Act exempts from disclosure “records, the disclosure of which is exempted or prohibited pursuant to federal or state law.” Govt. Code §6250 *et seq.* Accordingly, the names and identification numbers of detainees have been redacted on the grounds that they are exempt from disclosure pursuant to Govt. Code §6254(c); Civil Code §56; Health & Safety Code §128675 *et seq.*; 42 U.S.C. §1320d; and California Constitution Art. 1 §1. Please find enclosed all records in possession of ICPHD responsive to this request.

- (5) *“ICE facility operators must notify local public health agencies of any individual who is ill or isolated and is set for release ‘to coordinate further monitoring, if required.’ Is your department being notified by ICE or facility operators about impending releases?”*

ICPHD is notified via email and/or phone call.

- (6) *“Given the tangible threat to local communities posed by these vulnerable facilities, what if any plan has been developed by your department to ensure proper testing and containment of COVID-19 in these facilities by your department?”*

ICPHD does not have a plan developed specifically for IRDF.

- (7) *“Has your department issued any guidance regarding COVID-19 that has been shared with these facilities?”*

Staff at IRDF receive alerts and advisories distributed by ICPHD. Updated guidance is posted on ICPHD’s COVID-19 website at <http://www.icphd.org/health-information-and-resources/healthy-facts/covid-19/>. A statewide alert system known as the California Health Alert Network (“CAHAN”) is used to distribute information, including technical guidance and critical information, to partner agencies, including medical staff at the IRDF.

(8) *“Do you believe ICE detention facilities are currently in compliance with local public health orders and requirements?”*

As far as ICHPD is aware, IRDF is in compliance with local public health orders and requirements.

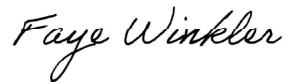
(9) *“How can individuals detained at the Imperial Regional Detention Facility communicate directly with the Department of Public Health in order to file complaints regarding their health and safety?”*

ICPHD is not aware of this information and recommends reaching out to IRDF for such information.

If you have any questions regarding this response, please contact me at (442) 265-1140.

Sincerely,

ADAM G. CROOK
COUNTY COUNSEL



Faye Winkler
Deputy County Counsel

Encl.

Adam G. Crook
County Counsel

Eric Havens
Assistant County Counsel



County Counsel
County Administration Center
940 West Main Street, Suite 205
El Centro, CA 92243
Telephone (442) 265-1120
Fax No. (760) 353-9347
countycounsel@co.imperial.ca.us

October 5, 2020

Via Electronic Mail

Jackie Gonzalez
Immigrant Defense Advocates
jackie@imadvocates.org

RE: Public Records Act Request

Dear Ms. Gonzalez,

The Imperial County Public Health Department (“ICPHD”) is in receipt of your request for records dated September 24, 2020.

Your request involves the need to search for and collect the requested records from facilities and establishments that are separate from the office processing the request; the need to search for, collect, and examine a voluminous amount of separate and distinct records; and the need to consult among two or more components of the agency having substantial subject matter interest in the request. Accordingly, pursuant to Government Code section 6253(c), the period of time within which we will respond to your request is extended to October 19, 2020.

If you have any questions regarding this response, please contact me at (442) 265-1140.

Sincerely,

ADAM G. CROOK
COUNTY COUNSEL

Faye Winkler

By: Faye Winkler
Deputy County Counsel

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0018
(916) 319-2018
FAX (916) 319-2118

DISTRICT OFFICE
ELIHU M. HARRIS STATE BUILDING
1515 CLAY STREET, SUITE 2204
OAKLAND, CA 94612
(510) 286-1670
FAX (510) 286-1888

E-MAIL: Assemblymember.Bonta@assembly.ca.gov

Assembly California Legislature



COMMITTEES
APPROPRIATIONS
COMMUNICATIONS AND CONVEYANCE
GOVERNMENTAL ORGANIZATION
HEALTH

October 12, 2020

Acting Director Sandra Shewry, MPH, MSW
California Department of Public Health
Sacramento, CA 95814

Re: ICE Raids Public Health Concern

Dear Acting Director Shewry,

As members of the State Legislature, we are contacting your office with respect to a public health concern that presents a unique and ever-growing challenge to our community during the COVID-19 pandemic.

According to reports in the press Immigration and Customs Enforcement (ICE) is preparing to conduct an "enforcement blitz" in the month of October, which targets U.S. cities and jurisdictions that have adopted "sanctuary" policies. According to reports, this operation has already commenced.

While we very clearly understand that the enforcement of immigration laws and the operation of detention facilities used to house immigrants is within the jurisdiction of the federal government, we are also aware that all ICE detention facilities are subject to certain mandatory requirements, including but not limited to the following:

- Each facility should "comply with current and future plans implemented by federal, state or local authorities addressing specific public health issues including communicable disease reporting requirements."¹
- Each facility should actively engage with local health departments to understand in advance which public health entity has jurisdiction over public health measures for COVID-19 in the facility. ²
- Each facility must develop a COVID-19 mitigation plan. Administrators should plan and prepare for COVID-19 by "[c]oordinating with public health and correctional partners." As

¹ ICE Performance-Based National Detention Standards (PBNDS) for 2008 and 2011

² This requirement is from CDC Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities pg 5, guidance which is mandatory for all ICE detention facilities.

well as “[i]dentify points of contact in relevant state, local, tribal, and/or territorial public health departments before cases develop.”³

Our offices are particularly concerned that this operation is in direct contradiction with state public health laws and mandates, and in fact ICE’s Enforcement and Removal Operations COVID-19 Pandemic Response Requirements. This guidance issued by ICE requires mandatory compliance with CDC’s Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities. The CDC guidance on detention specifically requires detention facilities to limit transfers of individuals to and from facilities unless absolutely necessary.

According to two officials cited in press reports, the planned operation is intended to be a “political messaging campaign” by ICE. This raises very serious questions about whether ICE is choosing to violate mandatory and specific guidance to achieve political objectives as an agency.

There have been COVID-19 outbreaks in four of the five detention facilities in the state of California, and transfers into two of these facilities have been halted as a result of litigation focused on ICE’s inability to properly address the health and safety of those detained.

In addition to the threat posed to those inside detention we are seriously concerned about the impact this has on public health as a whole. A study published in the [Journal of Urban Health](#) on the spread of COVID-19 in immigrant detention facilities estimates that coronavirus outbreaks among a minimum of 65 ICE facilities (59%) would overwhelm ICU beds within a 10-mile radius and outbreaks among a minimum of 8 ICE facilities (7%) would overwhelm local ICU beds within a 50-mile radius over a 90-day period, provided every ICU bed was made available for sick detainees.⁴

To that end, we would kindly like to have the following questions addressed in writing:

- 1.) What, if any, coordination or collaboration has taken place between ICE detention operators and your office?
- 2.) Which state health agency is responsible for coordination with ICE detention facilities or operators? Are you willing to request information from relevant state agencies regarding their coordination or lack thereof with ICE on public health grounds?
- 3.) Are ICE detention facilities currently in compliance with state and federal COVID-19 reporting requirements?
- 4.) The ICE Enforcement and Removal Operations (ERO) COVID-19 Pandemic Response Requirements requires coordination with public health partners. Is this operation being coordinated with these partners at the state and local level?
- 5.) Does your office have an assessment of the potential impact a statewide enforcement operation may have on public health resources and community safety?

³ *Id.* at pg 6

⁴ Modeling COVID-19 and Its Impacts on U.S. Immigration and Customs Enforcement (ICE) Detention Facilities, 2020 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7228433/>

6.) What steps has ICE taken to coordinate with California local and state public health authorities, as required by the ERO COVID-19 Pandemic Response Requirements?

Please contact Assemblymember Bonta's Legislative Director Maheen Ahmed at maheen.ahmed@asm.ca.gov or 916.319.2018 to provide the answers to the questions above or if you have any questions.

Sincerely,



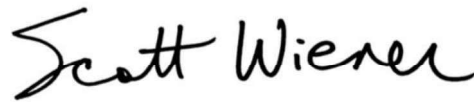
Rob Bonta
Assemblymember, 18th Assembly District



Miguel Santiago
Assemblymember, 53rd Assembly District



Autumn Burke
Assemblymember, 62nd Assembly District



Scott Wiener
Senator, 11th Senate District



David Chiu
Assemblymember, 17th Assembly District



Cecilia Aguiar-Curry
Assemblymember, 4th Assembly District



Phil Ting
Assemblymember, 19th Assembly District



Jose Medina
Assemblymember, 61st Assembly District



Marc Levine
Assemblymember, 10th Assembly District



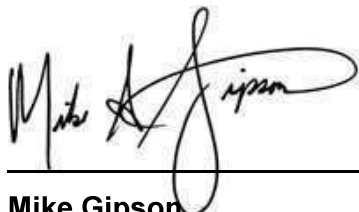
Wendy Carrillo
Assemblymember, 51st Assembly District



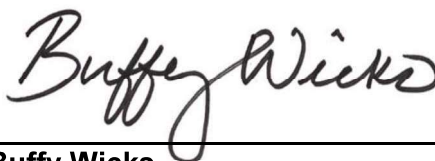
Freddie Rodriguez
Assemblymember, 52nd Assembly District



Bill Quirk
Assemblymember, 20th Assembly District



Mike Gipson
Assemblymember, 64th Assembly District



Buffy Wicks
Assemblymember, 15th Assembly District



Cristina Garcia
Assemblymember, 58th Assembly District



Monique Limon
Assemblymember, 37th Assembly District



Nancy Skinner
Senator, 9th Senate District



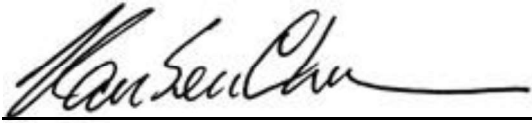
Ash Kalra
Assemblymember, 27th Assembly District



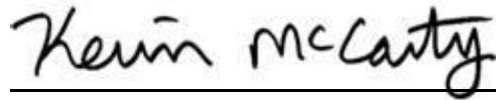
Sydney Kamlager
Assemblymember, 54th Assembly District



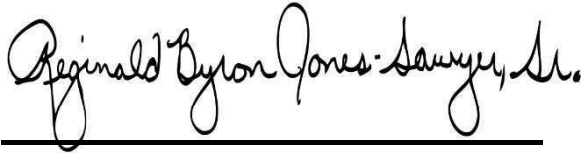
Luz Rivas
Assemblymember, 39th Assembly District



Kansan Chu
Assemblymember, 25th Assembly District



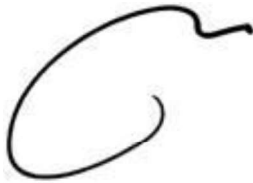
Kevin McCarty
Assemblymember, 7th Assembly District



Reggie Jones-Sawyer
Assemblymember, 59th Assembly District



Maria Elena Durazo
Senator, 24th Senate District



Mike McGuire
Senator, 2nd Senate District



Steven Bradford
Senator, 35th Senate District

CC: Monica Wagoner, Deputy Director