



VIA ELECTRONIC CORRESPONDENCE

March 20, 2020

The Honorable Gavin Newsom
1303 10th Street, Suite 1173
Sacramento, CA 95814

RE: COVID-19 and immigration detention in California

Dear Governor Newsom:

The threat of a COVID-19 outbreak in immigration detention facilities is dire and imminent. Individuals incarcerated in the state's five immigration detention facilities are some of the most vulnerable to coronavirus infection in the state.

Immigrant rights advocates and human rights organizations have called for the federal government to act immediately by releasing people from detention. Rather than halting enforcement operations, on the first day of California's COVID-19 lockdown, Immigration and Customs Enforcement ("ICE") took to our streets to terrorize and arrest individuals.¹ Such draconian enforcement actions wreak havoc on our social fabric, cause grave economic and emotional instability in our communities, and increase unnecessary detention at a time when it should be curtailed. The federal administration's behavior is particularly reprehensible given that while it continues its enforcement activities, it is simultaneously banning asylum seekers from admission into the United States due to COVID-19 concerns within detention centers.²

In light of the federal administration's erratic and irresponsible behavior with respect to COVID-19 and the health, safety and welfare of individuals in immigration detention, the state must do everything in its power to protect all Californians and halt the separation and detention of families. We call on the state to take immediate action in the following manner:

1. Call for the release of immigrants in detention,
2. Halt the expansions of all immigration detentions effective immediately, and
3. Suspend the transfer of individuals from California's custody to ICE

¹ With masks at the ready, ICE agents make arrests on first day of California coronavirus lockdown
<https://www.latimes.com/california/story/2020-03-17/for-ice-agents-its-business-as-unusual-day-after-sweeping-coronavirus-order>

² Citing Coronavirus, Trump will Announce Strict New Border Controls
<https://www.nytimes.com/2020/03/17/us/politics/trump-coronavirus-mexican-border.html>

I. Call for the release of immigrants in detention

We are in the midst of an international health crisis where people kept in close quarters are in the greatest danger of contracting and spreading COVID-19. Health professionals have already indicated that incarcerated populations are well on their way to being at the epicenter of this pandemic.³ In a March 16, 2020 lawsuit calling for the release of vulnerable immigrants from ICE detention, the ACLU noted,

Immigrant detention centers are institutions that uniquely heighten the danger of disease transmission. In normal circumstances, ICE has proven time and again that it is unable to protect the health and safety of detained people. These are not normal circumstances, and the heightened risk of serious harm to people in detention from COVID-19 is clear. Public health experts have warned that failing to reduce the number of people detained — and in particular, failing to release those particularly vulnerable to the disease — endangers the lives of everyone in the detention facility, including staff, and the broader community.⁴

The state of California is home to more immigrants than any other state. It also houses one of the largest immigrant detention systems in the country. Around ninety-five percent of people are detained in facilities owned and operated by private for-profit corporations, lacking basic transparency, accountability and minimum humanitarian standards.⁵

The history of inadequate health care provisions at these detention facilities exacerbate the concern around the current health crisis. The Adelanto detention facility, one of the largest and deadliest private detention centers in the country exemplifies some of the systemic health care deficiencies. A September 2018 report from the U.S. Department of Homeland Security’s Office of the Inspector General found significant health and safety risks at the facility including instances of detainees hanging nooses made from bed sheets. Similarly, in a separate report, the DHS for Civil Rights and Civil Liberties found it was “more likely than not” that problems with medical care “contributed to medical injuries, including bone deformities and detainee deaths.”

In a recent letter calling on ICE to halt enforcement operations and to provide adequate health and safety measures in detention facilities, legal service providers noted the following disturbing practices:

At the Mesa Verde Detention Facility (MVDF), for example, individuals sleep in massive dormitories with dozens of others. Previously, these close quarters have allowed outbreaks of mumps, scabies, and other highly contagious diseases spread aggressively in

³ Dr. Amanda Klonsky, *An Epicenter of the Pandemic Will be Jails and Prisons, if Inaction Continues*, The New York Times (March 16, 2020).

⁴ ACLU Sues ICE for Release of Immigrants Especially Vulnerable to COVID-19

<https://www.aclu.org/press-releases/aclu-sues-ice-release-immigrants-especially-vulnerable-covid-19>

⁵ BRIEF OF AMICI CURIAE IMMIGRANT LEGAL RESOURCE CENTER, HUMAN RIGHTS WATCH, AND FREEDOM FOR IMMIGRANTS IN SUPPORT OF DEFENDANTS’ OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION AND DEFENDANTS’ MOTION TO DISMISS

https://www.ilrc.org/sites/default/files/resources/imm_rts_geo_v_ca_amicus.pdf

immigration detention facilities, including in GEO Group-operated facilities in California. MVDF detainees also have reported that they are still required to have meals in common spaces with dozens of individuals, mere inches from their fellow detainees. Medical professionals also stress that personal hygiene practices are crucial to slowing the spread of the virus. However, individuals at Yuba County Jail report that they have not been provided any hygiene products, and that they have to pay for soap if they want it. A MVDF official recently informed advocates that hand sanitizer and sanitizing wipes are not allowed into the facility, and the visitation spaces lack handwashing stations.⁶

As it stands, thousands of lives are at risk in a detention system notorious for its fatally flawed medical care. We urge you to join advocates in calling for ICE to release individuals from detention.

II. Halt the Expansion of Immigration Detention Facilities

The proposed expansions at the Adelanto and the Mesa Verde detention facilities pose a major health risk and require emergency action during this health crisis. Combined, these facilities stand to expand to hold nearly 2,200 more individuals. Earlier this year, each city held planning commission meetings on the issue of the expansion of these facilities. While the planning commission for the City of McFarland voted to reject the expansion of the Mesa Verde detention facility, the planning commission for the City of Adelanto voted in favor of expansion. Both decisions have pending appeals.

The State of California can and must act in this regard, by ensuring that these private detention facilities do not expand to put even more people in harm's way. The expansion of these facilities can result in the needless transmission of COVID-19 to thousands of individuals in our state, held in facilities that are woefully unequipped to deal with this health crisis. This also increases the spread of COVID-19 within California communities, as both detention center staff and immigrants at the conclusions of their case, return to their communities.

Your office has already declared California to be in a state of emergency and holds ample authority under the California Emergency Services Act (“CESA”) to halt the expansion of immigration detention centers in California during this pandemic. Under Section 8567 of CESA, “[t]he Governor may make, amend, and rescind orders and regulations necessary to carry out the provisions of this chapter. The orders and regulations shall have the force and effect of law.” As such, your office should order an immediate halt to the expansion of immigration detention centers, including any proceedings or meetings connected to it.

Furthermore, the Governor can take affirmative steps to utilize these facilities for public good, instead of public endangerment. Under Section 8572 of California Emergency Services Act the Governor also has the right to utilize private property as needed. “In the exercise of the emergency powers hereby vested in him during a state of war emergency or state of emergency, the Governor is authorized to commandeer or utilize any private property or personnel deemed

⁶ Letter to ICE re COVID19, <https://www.centrolegal.org/wp-content/uploads/2020/03/Letter-to-ICE-re-COVID-19.pdf>

by him necessary in carrying out the responsibilities hereby vested in him as Chief Executive of the state and the state shall pay the reasonable value thereof.” If needed these facilities can be utilized as space to store medical equipment, or provide emergency shelter or space for medical care.

The Governor has broad authority to utilize these facilities as sites to deliver necessities to the public. Under Section 8627.5(a), “[t]he Governor may make, amend, or rescind orders and regulations during a state of emergency that temporarily suspend any state, county, city, or special district statute, ordinance, regulation, or rule imposing nonsafety related restrictions on the delivery of food products, pharmaceuticals, and other emergency necessities distributed through retail or institutional channels, including, but not limited to, hospitals, jails, restaurants, and schools. The Governor shall cause widespread publicity and notice to be given to all of these orders and regulations, or amendments and rescissions thereof.”

III. Declare a Moratorium on All Transfers and Notifications to Immigration Authorities

Our local and state law enforcement agencies constantly funnel people into immigration detention. Given the serious risk to the health of any individual who is transferred to ICE’s custody, and the broader implications for public health, it is imperative that the state of California suspend the practice of turning people over to ICE. It is well within the state’s authority to suspend transfers, notifications, and other practices which facilitate ICE arresting people in CDCR or local law enforcement’s custody or facilities.⁷

As noted epidemiologist Homer Venters recently pointed out: “From the standpoint of responding to this outbreak, one of the most important questions is: How can we have fewer people in these places—in jails and prisons?”⁸ Further, “[a]ccording to health experts, it is not a matter of if, but when, this virus breaks out in jails and prisons. People are constantly churning through jail and prison facilities.”⁹ In the context of the current epidemic, handing people over to ICE merely worsens this “churn,” prolonging incarceration and exposure to the virus, and increasing the chances it will spread. (Moreover, we stand in full solidarity with the call to immediately release people from state prison, as detailed more fully in a recently submitted letter to your office.¹⁰)

⁷ A bill introduced by Asm. Rob Bonta, D-Alameda, AB 2596, or the VISION Act, would protect individuals convicted for offenses committed as youth, who have earned release from CDCR, from being transferred to immigration authorities for deportation purposes. The bill also would prevent immigrants eligible for release from jail custody from being transferred to immigration authorities. <https://a18.asmdc.org/press-releases/20200220-bonta-introduces-package-bills-protect-californians-civil-liberties>. At a press conference on Feb. 20, 2020, Asm. Bonta stated: “Once a Californian has paid their debt to society and earned their release from our state prison systems and jails, they should be released back to society, to their community, to their family, rather than funneled into Trump’s detention and deportation machine, where they may suffer in private civil detention centers...”

⁸ “Gonnerman, Jennifer. “How Prisons and Jails Can Respond to the Coronavirus.” The New Yorker, March 14, 2020. <https://www.newyorker.com/news/q-and-a/how-prisons-and-jails-can-respond-to-the-coronavirus>

⁹ Amanda Klonsky, IBID.

¹⁰ Letter by coalition of more than 20 California justice organizations sent to Gov. Gavin Newsom, urging immediate steps to reduce the spread of COVID19 in state prisons and surrounding communities (March 13, 2020), available at:

The state must take proactive measures to limit the population of ICE detainees, including by suspending its role in transferring people to ICE whom this administration increasingly chooses to detain unnecessarily. Just a few decades ago, immigration detention was virtually unknown in the United States.

We also call upon the state to issue a similar directive to local jails. Your office, in partnership with the Attorney General, should take the necessary steps to prohibit all entanglement with immigration authorities at the local level in this moment of crisis. Under the California constitution, the Attorney General is tasked to enforce all California laws, which includes any orders or regulations issued during a State of Emergency. Cal. Const. art. V § 13; Cal. Gov't Code § 8567(a). In handing individuals over to immigration authorities, county jails serve as a pipeline to the immigration detention system. As some Sheriffs work to reduce their jail populations and curtail custodial arrests in response to COVID-19, it makes little sense for them to facilitate life-threatening ICE incarceration, particularly considering civil immigration detention is entirely unnecessary.

Given the dire and well-documented public health concerns cited above, to allow CDCR and local law enforcement agencies to continue to transfer people to ICE custody in the midst of this outbreak could amount to a death sentence.

In the face of federal government inaction, both in regards to the larger COVID-19 crisis and the requests to release people in immigration detention, we look to our state for leadership. We ask that you stand on the right side of history and take decisive steps to prevent the expansion of private immigration detention and suspend the transfer of individuals in state or local custody to ICE in California as we confront this global pandemic. Your leadership will protect the health and safety of the immigrant community and protect people over profits in our state. Should you have any questions related to this request please contact, Jackie Gonzalez, Policy Director, Immigrant Defense Advocates at jackie@imadvocates.org.

Sincerely,

/s/ Jackie Gonzalez
Jackie Gonzalez
Policy Director
Immigrant Defense Advocates

/s/ Jennie Pasquarella
Jennie Pasquarella
Director of Immigrants' Rights
ACLU of Southern California

/s/ Brian Grady
Dr. Brian Grady
President
San Francisco Marin Medical Society

https://thejusticecollaborative.com/wp-content/uploads/2020/03/Letter-to-Governor-Newsom_CDCR_COVID_19-1.pdf?fbclid=IwAR0FLToGP-P1BkmMy6wtH9DegUH-f9OgbTI5WLNHrc2uEoBdi01UajV9Hel

Supporting Organizations

1. ACLU of California
2. ACT for Women and Girls
3. Advancing Justice - Asian Law Caucus
4. African Advocacy Network
5. AFSC Pan Valley Institute, Fresno
6. Alameda County Public Defender
7. Alameda County Immigration Legal and Education Partnership (ACILEP)
8. Alianza Sacramento
9. Alliance for Boys and Men of Color
10. Asian American Pacific Islander Christians for Social Justice (AAPI-CSJ)
11. Asian Americans Advancing Justice - Asian Law Caucus
12. Asian Prisoner Support Committee
13. Bay Area Asylum Support Coalition (BAASC)
14. Bay Area Family Solidarity Network
15. Beautiful Trouble
16. Berkeley Neighbors for Justice
17. BORDER ANGELS
18. Buen Vecino
19. Buena Vista United Methodist Church and Advocacy & Justice Committee
20. California Collaborative for Immigrant Justice
21. California Faculty Association (SFSU Chapter)
22. California Immigrant Policy Center
23. California Immigrant Youth Justice Alliance (CIYJA)
24. California Lutheran University
25. California Rural Legal Assistance Foundation
26. Campaign for Immigrant Detention Reform
27. Catalyst Project
28. Center for Empowering Refugees and Immigrants
29. Central American Resource Center - CARECEN- of California
30. Central Valley Immigrant Integration Collaborative (CVIIC)
31. Centro Legal de la Raza
32. Cere Policy Research
33. Children's Defense Fund - California
34. Clergy and Laity United for Economic Justice
35. Close the Camps Committee Unitarian Universalists San Francisco
36. CLUE-Clergy and Laity United for Economic Justice
37. Coachella Valley/Imperial Immigrant Support
38. Community Presbyterian Church
39. Communities United for Restorative Youth Justice
40. Contra Costa Defenders Association
41. Contra Costa Immigrant Rights Alliance
42. Courage California

43. Detention Watch Network
44. Do No Harm Coalition
45. Dolores Huerta Foundation
46. Dolores Street Community Services
47. Drug Policy Alliance
48. East Bay Alliance for a Sustainable Economy
49. Ensuring Opportunity Campaign to End Poverty in Contra Costa
50. Faith in Action Bay Area
51. Faith in the Valley
52. Fathers & Families of San Joaquin
53. First Presbyterian Church of Palo Alto
54. First Unitarian Universalist Society of San Francisco
55. Friends of Sabeel North America
56. Gathering for Justice
57. Health Justice Commons
58. Human Impact Partners (HIP)
59. Human Rights Watch
60. ICE Out of Tulare
61. ICE out of Marin
62. Immigrant Defense Project
63. Immigrant Legal Defense
64. Immigrant Legal Resource Center
65. Immigration Institute of the Bay Area
66. Immigration Task Force
67. Indivisible for Immigration
68. Indivisible Sausalito
69. Indivisible San Francisco
70. Indivisible Ventura
71. Inland Coalition for Immigrant Justice
72. Interfaith Council of Contra Costa County
73. Interfaith Movement for Human Integrity
74. Innovative Justice Solutions
75. Jewish Action NorCal
76. Jewish Family and Community Services East Bay
77. Kehilla Community Synagogue
78. Kern Welcoming and Extending Solidarity to Immigrants
79. Knox Presbyterian Church
80. Koreatown Popular Assembly
81. KWESI
82. Lakeshore Avenue Baptist Church
83. Law Office of Cynthia Tyler
84. Law Office of Helen Lawrence
85. Legal Aid at Work
86. Long Beach Immigrant Rights Coalition
87. Long Beach Sacred Resistance
88. MILPA
89. Nadia Tomaszewski
90. Network in Solidarity with The People of Guatemala
91. Never Again Action - Bay Area
92. Never Again Action - Sacramento
93. Never Again Los Angeles
94. Never Again UUSF
95. NorCal Resist
96. North Bay Rapid Response Network: Napa, Solano and Sonoma Counties
97. OLA RAZA

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| 98. Organization Name (exactly as you would like it to appear) | 121. San Francisco Rapid Response Network |
| 99. Pangea Legal Services | 122. San Joaquin College of Law - New American Legal Clinic |
| 100. Peace and Justice Working Group of Presbytery of San Jose | 123. Santa Cruz Barrios Unidos |
| 101. Peninsula Progressive Action Group | 124. Secure Justice |
| 102. PICO California | 125. Seminary of the Street |
| 103. Presbyterian Church USA | 126. Sierra Pacific Synod, Evangelical Lutheran Church in America |
| 104. Public Law Center | 127. SIREN |
| 105. Rapid Response Network of Kern | 128. Sisters of Mercy Solidarity Committee |
| 106. Rapid Response Network of Monterey County | 129. Social Justice Team, Congregation Sherith Israel, SF |
| 107. Reiki Center of the East Bay | 130. Sonoma Immigrant Services |
| 108. Religious Action Center of Reform Judaism/RAC-CA | 131. St. Mark's Lutheran Church Sanctuary Committee |
| 109. Resilience Orange County | 132. Stand Together Contra Costa |
| 110. Restaurant Opportunities Center of The Bay | 133. STEP UP!Sacramento |
| 111. Root & Rebound | 134. Sunrise Bay Area |
| 112. RYSE Youth Center | 135. SURJ Marin |
| 113. Sacramento Rapid Response Network "Migra Watch" | 136. Task Force on the Americas |
| 114. Sacred Heart Community Service | 137. The Community Law Office |
| 115. Safe Return Project | 138. Tikkun Magazine & Beyt Tikkun Synagogue |
| 116. San Bernardino Community Service Center | 139. Unitarian Universalist Justice Ministry of California |
| 117. San Diego Immigrant Rights Consortium | 140. University of San Francisco Immigration & Deportation Defense Clinic |
| 118. San Francisco Area, United Methodist Church | 141. Ventura County Clergy and Laity United for Economic Justice (CLUE-VC) |
| 119. San Francisco Immigrant Legal and Education Network (SFILEN) | 142. VIDAS - Vital Immigrant defense Advocacy & Services |
| 120. San Francisco Marin Medical Society | |

143. Wellstone Democratic Renewal Club
144. Westwood Hills Congregational United
Church of Christ
145. Wholly Present
146. Women's March Kern County
147. Young Women's Freedom Center
148. Your Allied Rapid Response (YARR),
Santa Cruz
149. Youth Justice Coalition