



Advocate Visitors with Immigrants in Detention (AVID)
in the Chihuahuan Desert

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May 14, 2020

Re: Immediately address the impending public health disaster of ICE detention in New Mexico and El Paso, Texas

Dear State and U.S. Federal officials:

We write to demand immediate action by the state of New Mexico, the New Mexico U.S. Congressional Delegation and the TX-17 Congressional Office, as well as the Mayors of El Paso,

Texas and Las Cruces, New Mexico to secure the release of people from ICE detention facilities under the jurisdiction of the El Paso ICE Field Office. In the Otero County Processing Center (OCPC) (Chaparral, New Mexico), there are now 38 cases of COVID-19.¹ In the El Paso Service Processing Center (EPSPC) there are currently 10. Despite this, last week ICE recklessly transferred individuals between EPSPC, OCPC, and the Tarrant County Detention Facility (TCDF) in Estancia, New Mexico, putting at risk staff and detained individuals in all three facilities. TCDF now has 1 positive case. With COVID-19 cases rising in both New Mexico (5,364) and neighboring El Paso (1456), state, city, and congressional officials must no longer allow ICE to operate irresponsibly. Moreover, the negligence of private-prison companies that manage some of these facilities, such as Management and Training Corporation (MTC), creates the conditions for outbreaks among vulnerable detained populations. Repeated failures on the part of ICE and MTC put people's lives at greater risk, and through their continued dereliction of duty are not adequately caring for detained individuals who, through no fault of their own, are now battling the virus.

Since mid-March, numerous organizations sent letters expressing concerns about ICE detention centers becoming COVID-19 hotspots, and offering concrete measures to avoid such a crisis, namely the release of everyone from detention. The first COVID-19 cases appeared at OCPC in early April, and at EPSPC shortly after. Yet despite alarming reports and myriad warnings, even including calls for mass releases by the former acting director of ICE,² little has been done to mitigate the growing spread of the virus in these congregate settings. In fact, ICE and private contractors continue to needlessly transfer detained individuals between facilities,³ do a poor job of screening individuals in detention, deny adequate access to necessary hygiene supplies, maintain substandard conditions (food and sanitation), and continue to treat people in detention as if they are “trash” –the word used to describe how a man at OCPC, who just tested positive for COVID-19, felt after being put into solitary confinement.

Stop for a moment and imagine not just the intense fear of contracting COVID-19, but let sink in the visceral terror of realizing your jailors' plan for your care is to place you in a dirty solitary confinement cell. Ashamedly, this very unacceptably cruel and inhuman treatment is occurring at OCPC right now. At a facility with a well-documented track record of abusing solitary,⁴ run by

¹ Robert Moore, “65 COVID-19 Cases Tied to Private Detention Complex in Southern New Mexico,” *El Paso Matters* (blog), May 14, 2020, <https://elpasomatters.org/2020/05/14/65-covid-19-cases-tied-to-private-detention-complex-in-southern-new-mexico/>.

² John Sandweg, “I Used to Run ICE. We Need to Release the Nonviolent Detainees.,” *The Atlantic*, March 22, 2020, <https://www.theatlantic.com/ideas/archive/2020/03/release-ice-detainees/608536/>. Note, Sandweg calls for only releasing select detained individuals detained by ICE, we call for releasing **all** individuals detained by ICE. However, Sandweg's call for release underscores the gravity of the public health risk.

³ It appears these transfers were done as retaliation aimed to break up organizing by detained persons calling attention to their dire health situation at EPSPC, as well as to fill bed for profit motives.

⁴ DHS OIG, “Concerns about ICE Detainee Treatment and Care at Detention Facilities” (Washington, D.C.: Department of Homeland Security (DHS) Office of Inspector General (OIG), December 11, 2017),

an agency that rampantly misuses solitary confinement,⁵ detained victims of this disease are being punished with solitary confinement just for getting sick—again at no fault of their own.

For over a month, we received regular reports from people detained in OCPC and EPSPC stating that guards were not wearing gloves and masks. After the first cases appeared in each facility, staff began to take some measures. But, weeks later, until late April, detained individuals were still not afforded masks. These needless delays in implementing critical protective measures, and the utter carelessness of some facility and ICE staff, directly contributed to the spread of COVID-19 in OCPC and surrounding communities. On May 3, there were only 6 cases reported for OCPC; now there are 38 – in ten days the number of positive cases has increased sixfold. At this point, the rate of infections is accelerating.

We now know that in New Mexico Department of Health data, positive cases of COVID-19 in OCPC were masked. That data reporting problem was fixed last weekend. We also know of multiple dorms in OCPC that have been under quarantine for over a month. Multiple individuals were removed from these dorms after testing positive for the virus, and are now languishing in dirty solitary confinement cells instead of being given the medical care and proper environment to help them overcome the virus. The wholly unnecessary loss of life that will inevitably happen as a result of this outbreak leaves counties open to liability. This was entirely avoidable had the State of New Mexico stepped in earlier to aggressively pressure ICE to release individuals from its custody as a public health measure. It is not too late to stop the spread of the virus from further accelerating in detention facilities by emptying out the facilities and allowing people to protect themselves within the care of their communities and families.

<https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-32-Dec17.pdf>; USCCR, “Trauma at the Border: The Human Cost of Inhumane Immigration Policies,” Briefing Report (Washington D. C.: U.S. Commission on Civil Rights (USCCR), October 2019), 94–95, <https://www.usccr.gov/pubs/2019/10-24-Trauma-at-the-Border.pdf>.

⁵ Nick Schwellenbach, “Confidential Report Warned ICE of ‘Inhumane’ Use of Solitary Confinement,” Project On Government Oversight, September 12, 2019, <https://www.pogo.org/investigation/2019/09/confidential-report-warned-ice-of-inhumane-use-of-solitary-confinement/>; Ian Urbina, “The Capricious Use of Solitary Confinement Against Detained Immigrants,” *The Atlantic*, September 6, 2019, <https://www.theatlantic.com/politics/archive/2019/09/ice-uses-solitary-confinement-among-detained-immigrants/597433/>; Spencer Woodman et al., “Solitary Voices: Thousands of Immigrants Suffer in Solitary Confinement in ICE Detention,” *The Intercept* (blog), May 21, 2019, <https://theintercept.com/2019/05/21/ice-solitary-confinement-immigration-detention/>; DHS OIG, “ICE Field Offices Need to Improve Compliance with Oversight Requirements for Segregation of Detainees with Mental Health Conditions” (Washington D. C.: Department of Homeland Security (DHS) Office of Inspector General (OIG), September 29, 2017), <https://www.oig.dhs.gov/sites/default/files/assets/2017-11/OIG-17-119-Sep17.pdf>.

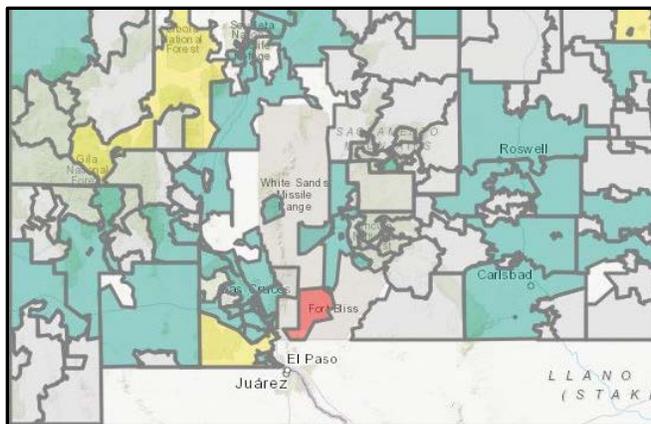


Figure 1. COVID-19 cases in southern New Mexico by zip code.

Source NM Department of Health.

<https://cvprovider.nmhealth.org/public-dashboard.html>

OCPC is located in Chaparral, New Mexico's largest *colonia*,⁶ where there is inadequate access to health and other services.⁷ Both Chaparral and the detention center are in zip code 88081, where there are now 91 positive cases of COVID-19 – the highest of any zip code in the southern half of the state of New Mexico (Figure 1). Residents of Chaparral are not well equipped to handle the outbreak. Chaparral abuts, and in fact effectively joins, the city of El Paso on the northeast side. We now understand that 6 MTC employees from OCPC tested

positive, and another 45 are in quarantine. These individuals live in southern New Mexico and the El Paso area. Due to the private prisons that are mismanaged by MTC, the *colonia* is now a COVID-19 hotspot. The lives of those detained in OCPC are at greater risk. So is the community of Chaparral, the residents of adjacent Doña Ana County, and the city of El Paso and surrounding areas.

We reiterate the following demands. There must be:

- systematic testing of all individuals in all ICE detention facilities, and the immediate release of anyone who tests negative for COVID-19.
- immediate medical attention in a non-detention setting to treat anyone who tests positive for COVID-19 in ICE custody. These individuals must immediately be taken out of solitary confinement and cared for appropriately.
- all releases should be on orders of supervision with no bond required.
- coordination between ICE and community groups to facilitate orderly releases.
- immediate testing of all staff at all detention facilities, and paid time off for any staff who test positive so they may self-quarantine and recover.
- systematic and mandatory use of appropriate protective measures by detention staff who test negative for COVID-19. They must wear protective gear and follow protective measures inside and outside of the facilities.
- free commissary and phone calls for all of those in detention until they can be released, to be paid for by MTC, CoreCivic, or ICE.
- an immediate halt to all custody transfers between any ICE detention facility.

⁶ Stephanie May Joyce, "ICE Facility Overshadows Immigrant Community in Chaparral New Mexico," News, Las Cruces Sun-News, January 17, 2020, <https://www.lcsun-news.com/story/news/local/new-mexico/2020/01/17/ice-internment-facility-near-chaparral-new-mexico-undocumented-immigrant-community/4494224002/>.

⁷ Michelle Del Rio et al., "Transportation Matters: A Health Impact Assessment in Rural New Mexico," *International Journal of Environmental Research and Public Health* 14, no. 6 (June 13, 2017): 629–47, <https://doi.org/10.3390/ijerph14060629>.

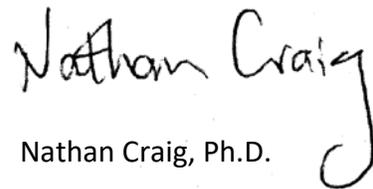
- an immediate halt to all deportations, and releases on orders of supervision for all those with final orders of removal.
- a halt to all ICE enforcement activities, so that there are no new detentions.
- a halt to transfers of individuals to ICE custody who have been released from jails or prisons.
- the permanent closure of these ICE detention facilities once emptied.

COVID-19 is spreading quickly. Detained individuals can no longer wait for action, nor can our communities. **We want you to contact Corey Price, the El Paso ICE Field Office Director, to apply pressure and actively insist on the release of everyone in ICE custody.** To prevent the spread of the virus in New Mexico and neighboring El Paso, everyone in ICE custody at the four facilities must be released on orders of supervision. Individuals who have COVID-19 should be prioritized for immediate release to healthcare facilities, where they must receive adequate medical care necessary to recover from the virus. ICE and ICE contractors must pay for that care because they are responsible for this situation. An outbreak at OCPC was avoidable, but now ICE and MTC bear responsibility for the consequences of their inaction. Immediate releases at EPSPC, TCDF and Cibola County Correctional Center must happen before those facilities follow the pattern at OCPC. Once all facilities are empty, they must stay empty. These facilities make our communities vulnerable, constitute a threat to public health, and are unnecessary for their stated purpose⁸—or any other purpose.

Sincerely,



Margaret Brown Vega, Ph.D.



Nathan Craig, Ph.D.

Advocate Visitors with Immigrants in Detention (AVID)

⁸ ICE, "Performance Based National Detention Standards 2011" (Department of Homeland Security, Immigration and Customs Enforcement, Enforcement and Removal Office, 2016), i, <https://www.ice.gov/detention-standards/2011>.

Cc:

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 - Michelle Kavanaugh, [REDACTED]
 - Rene Camacho, [REDACTED]
- Office of Senator Martin Heinrich
 - Alex Eubanks, [REDACTED]
- Office of Representative Ben Ray Luján
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 - Matt Garcia, General Counsel, [REDACTED]
 - Victor Reyes, Legislative Director, [REDACTED]
- Doña Ana County Public Health Office, Otero County Public Health Office
 - Dawn Sanchez, [REDACTED]