



THE UNIVERSITY OF
CHICAGO

THE EDWIN F. MANDEL LEGAL AID CLINIC
OF THE UNIVERSITY OF CHICAGO LAW SCHOOL

**NATIONAL
IMMIGRANT
JUSTICE CENTER**
A HEARTLAND ALLIANCE PROGRAM

Lawyers April 3, 2020

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Kenosha County Sheriff’s Department
Attn: Sergeant David Wright, Public Information Officer
1000 55th Street
Kenosha, WI 53140

Re: Request Under the Wisconsin Open Records Law

Dear Sergeant Wright:

The Edwin F. Mandel Legal Aid Clinic and the National Immigrant Justice Center submit this request for public records pursuant to the Wisconsin Open Records Law, Wis. Stat. § 19.31 et seq. (hereinafter “ORL”).

Background Information

The Edwin F. Mandel Legal Aid Clinic is a non-profit organization associated with the University of Chicago Law School. The Mandel Legal Aid Clinic submits this request with the National Immigrant Justice Center, a non-profit organization that has clients detained in the Kenosha County Jail (hereinafter “the facility”). Both organizations should be considered requestors under the ORL.

Request

We request copies of any and all existing public records¹ related to the facility’s response to the COVID-19 pandemic with respect to individuals the facility detains pursuant to an agreement with U.S. Immigration and Customs Enforcement (hereinafter “immigrant detainees”), including but not limited to:

¹ “Record,” as defined by the ORL, means any material on which written, drawn, printed, spoken, visual, or electromagnetic information or electronically generated or stored data is recorded or preserved, regardless of physical form or characteristics, that has been created or is being kept by an authority. “Record” includes, but is not limited to, handwritten, typed, or printed pages, maps, charts, photographs, films, recordings, tapes, optical discs, and any other medium on which electronically generated or stored data is recorded or preserved. Wis. Stat. § 19.32(2).

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1. **Records from January 1, 2015 to present related to general health care policies at the facility, including but not limited to:**
 - a. Records of any health-related assessments of the facility, including internal or external reviews of compliance with internal health policies or governmental health laws or regulations (federal, state, county and local).
 - b. Policies related to infectious diseases and infectious disease outbreaks, including:
 - i. Policies for identifying and limiting the spread of infectious disease in the facility.
 - ii. Preparedness plans or exercises for possible outbreaks of infectious disease.
 - iii. Records evaluating the impact of a pandemic on the facility, including the impact on immigrant detainees, staff, and visitors.
 - iv. Policies for responding to the impact of a pandemic on facility staffing, including:
 1. Contingency plans for significant staff absences.
 2. Cross-training staff.
 3. Recruitment of temporary personnel.
 4. Flexible work options.
 - c. Records regarding past outbreaks of infectious diseases, including the facility's response to the outbreaks and the impact of the outbreaks on the facility in general and immigrant detainee health in particular.
 - d. Policies for identifying and treating influenza and other respiratory illness in the facility, especially among immigrant detainees.
 - e. All policies related to general medical care and treatment of immigrant detainees, including:
 - i. Immigrant detainees with medical conditions.
 - ii. Immunocompromised immigrant detainees.
 - iii. Elderly immigrant detainees.
 - f. Policies related to personal hygiene of facility staff and detainees, including:
 - i. Hygiene-related requirements for staff.
 - ii. Access of staff and detainees to soap and other basic hygiene products.
 - iii. Access of staff and detainees to masks, gloves, and other protective gear.
 - g. Policies related to facility cleanliness, including policies and schedules for maintaining the cleanliness of any common and living areas.
 - h. Policies related to emergency preparedness.
 - i. Records regarding or describing the current living arrangements of immigrant detainees, including the layout of living quarters and number of immigrant detainees per cell, pod, or dorm and the size of all immigrant detainee cells, pods, or dorms.
 - j. General visitation policies for community and legal visits, including video visitation policies and detainee access to telephones.
 - k. Records of seasonal influenza vaccination rates for detainees and staff.
 - l. Employee training practices related to any of the policies discussed above.

2. Records from January 1, 2020 to present related to COVID-19 preparedness and response, including but not limited to:

- a. Policies related to limiting the spread of COVID-19, including but not limited to:
 - i. Cancellations of any facility activities.
 - ii. Changes in visitation policies, including any increase in videoconferencing and reducing the cost of phone and video calls.
 - iii. Access of immigrant detainees, staff, and other persons in the facility to personal hygiene supplies, including:
 1. Availability of free hygiene supplies, including types and quantities.
 2. Any reductions or waivers of fees for personal hygiene supplies.
 3. Availability of hygiene supplies for purchase, including the types of hygiene products available and their prices.
 - iv. Limiting contact between immigrant detainees and officers where possible.
 - v. Social distancing-motivated changes to living arrangements (such as layouts of dorms or pods), meal service, recreation options, waiting rooms, immigrant detainee labor, etc.
 - vi. Providing paid sick leave to employees with COVID-19 symptoms.
 - vii. Offering revised duties to staff who are at a higher risk of contracting COVID-19.
 - viii. Posting signs throughout the facility about symptoms, hand-washing guidance, and instructions to report symptoms to staff (and whether the signs accommodate non-English speaking and low literacy individuals).
 - ix. Suspending facility transfers or admissions of new detainees.
 - x. Suspending tours and volunteer visits.
 - xi. Facility sanitation.
 - xii. Providing hand sanitizer, soap, cleaning supplies, and increased laundry service to immigrant detainees.
 - xiii. Identifying immigrant detainees at high risk of contracting COVID-19.
 - xiv. Any efforts to reduce the immigrant detainee population, including but not limited to:
 1. Efforts encouraging the state to reduce jail admissions.
 2. Potentially releasing certain immigrant detainees.
 - xv. Attempts to arrange lawful alternatives to in-person court appearances.
 - xvi. The procurement and/or use of personal protective equipment for immigrant detainees, staff, and/or visitors.
 - xvii. The storage and maintenance of any personal protective equipment.
- b. Policies related to detecting COVID-19 among immigrant detainees, inmates, employees, or people who have contact with immigrant detainees, inmates, or employees, including but not limited to:
 - i. Checking staff and visitors daily for COVID-19 symptoms.
 - ii. Access to COVID-19 testing and any associated costs if not free.
 - iii. Screening all incoming arrestees.

- iv. Established guidelines/next steps if immigrant detainees, inmates, or staff present COVID-19 symptoms.
- c. Policies for addressing immigrant detainees, inmates, employees, or people who have contact with immigrant detainees, inmates, or employees who test positive for COVID-19, including but not limited to:
 - i. Policies for quarantining individuals who may have contracted COVID-19.
- d. Policies for addressing immigrant detainees, inmates, or staff who have tested positive for COVID-19, including but not limited to:
 - i. Policies for quarantining detainees and inmates who have contracted COVID-19.
 - ii. Policies for quarantining or reassigning staff who have contracted COVID-19.
 - iii. Policies for contact tracing or informing individuals who have had contact with either detainees or staff with COVID-19 of possible exposure.
- e. Policies for responding to current issues or possible future contingencies related to COVID-19, such as shortages of medical supplies, facility personnel, or cleaning products.
- f. Policies related to medically vulnerable persons, such as elderly immigrant detainees or immigrant detainees with preexisting health conditions.
- g. Policies regarding immigrant detainee contact with the following:
 - i. Attorneys.
 - ii. Families of immigrant detainees.
 - iii. State, county, and local law enforcement agencies.
 - iv. U.S. Department of Homeland Security and any of its components, including but not limited to U.S. Immigration and Customs Enforcement and U.S. Customs and Border Control.
 - v. Executive Office for Immigration Review.

3. Records from January 1, 2020 to present related to implementation of any COVID-19 policies, including but not limited to:

- a. Records of any inspections or assessments conducted in response to COVID-19.
- b. Records and communications evaluating the facility's preparedness for COVID-19.
- c. Records and communications related to any inspections or other assessments of the health care facilities, health policies, hygiene levels, or other characteristics related to the facility's preparedness for COVID-19.
- d. Informational materials provided to immigrant detainees, staff, visitors, or other persons who may visit the facility or have contact with immigrant detainees or employees regarding COVID-19 and the facility's preparedness.
- e. Records or schedules of any upcoming events in which immigrant detainees will be in contact with other persons, such as work schedules or schedules of upcoming social, religious, educational, or other events.
- f. Any press releases from the facility concerning COVID-19 and the facility's preparations and response plans.

- 4. Records from January 1, 2020 to present related to the facility's current capacity to deal with COVID-19, including but not limited to:**
- a. Records identifying immigrant detainees who are particularly vulnerable to COVID-19, including elderly immigrant detainees or immigrant detainees with underlying health conditions.
 - b. Inventories of cleaning and medical supplies.
 - c. Number of available beds for sick immigrant detainees.
 - d. Size of any health care facilities.
 - e. Daily population count of immigrant detainees, including records of all transfers to and from the facility.
 - f. Daily population count of all detainees at the facility, both immigrants and non-immigrants.
 - g. Number of employees.
 - h. Records of any suspected or confirmed cases of COVID-19 among inmates, staff, and/or visitors.
 - i. Records of detainees (both immigrants and non-immigrants) or employees experiencing flu-like symptoms since January 1, 2020.

Search

We respectfully request that you conduct searches of all electronic and paper/manual indices, filing systems, and physical locations for all records relating to the subject of the request.

Metadata

With respect to any records stored electronically, we request disclosure of all accompanying metadata.

Form of Production

We request that you provide records to us via e-mail, although we would also accept a flash drive, CD-ROM, or a cloud storage link. With respect to the form of production, we request that responsive electronic records be provided electronically in their native file formats wherever possible. *See Lueders v. Krug*, 2019 WI App 36, 388 Wis. 2d 147, 931 N.W.2d 898 (Ct. App. 2019). If disclosure of some or all records in native file formats is impossible—or of if the native file formats cannot be opened using commercial software available to the public—then we request that the records be provided electronically in PDF format, in the best image quality in the agency’s possession.

Fees

We understand that a fee may be imposed for the actual, necessary and direct costs of reproducing and transcribing records. Wis. Stat. § 19.35(3)(a). We also understand that a search fee may be imposed if the actual, necessary, and direct cost of locating the requested records exceeds \$50, except as otherwise provided by law or authorized to be prescribed by law. Wis. Stat. § 19.35(3)(c). However, as discussed below, this request involves a matter of public concern and is not being made for a commercial purpose. As such, we respectfully request that any fees associated with providing the requested records be waived in the public interest. *See* Wis. Stat. § 19.35(3)(e). If any fee will be incurred, we would be grateful if you would inform us of the total charges in advance of fulfilling my request.

Response Time

Under Wisconsin law, a response to this request must be provided “as soon as practicable and without delay.” Wis. Stat § 19.35(4)(a). If access to the records we are requesting will take longer than ten (10) business days, please contact us with information about when we might expect copies or the ability to inspect the requested records.

Redacted Documents

If a record contains material excepted from disclosure pursuant to ORL, please redact only the exempt portions and release all non-exempt portions, as required by Wis. State. § 19.36(6). *See Osborn v. Bd. of Regents*, 2002 WI 83, ¶ 45, 254 Wis. 2d 266, 302, 647 N.W.2d 158, 176.

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Explanation for Withholdings

If this request is denied in whole or in part, please provide a written statement of the reasons for denying such request as required by Wis. Stat. § 19.35(4)(b).

Public Interest

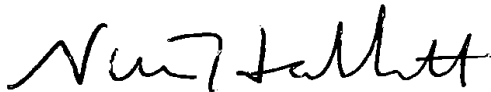
The requested information is in the public interest as it will enable the public to understand the risks that the COVID-19 pandemic poses to immigrant detainees. This information is not being sought for commercial purposes.

Please furnish the applicable records to nhallett@uchicago.edu. If any records cannot be submitted via electronic mail or cloud storage and must be physically mailed, please furnish all such records to:

Edwin F. Mandel Legal Aid Clinic
The University of Chicago Law School
6020 S. University Ave
Chicago, IL 60637

We would be glad to discuss this request in greater depth should you have any questions or concerns. Please feel free to contact the Mandel Legal Aid Clinic through the email address or phone number provided below. Many thanks for your time and consideration; We are very grateful for it.

Sincerely,



Nicole Hallett, on behalf of the Edwin F. Mandel Legal Aid Clinic
The University of Chicago Law School
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203-910-1980

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