

EXHIBIT 1



Al Otro Lado
P.O. Box 32578
Los Angeles, CA 90032



The Edwin F. Mandel Legal Aid Clinic
Immigrants' Rights Clinic
The University of Chicago Law School
6020 South University Avenue
Chicago, IL 60637

May 5, 2020

Via online portal (foiaonline.gov) and e-mail (foia@hq.dhs.gov; ice-foia@dhs.gov)

Dena Kozanas
Chief Privacy Officer/Chief FOIA Officer
Privacy Office, Mail Stop 0655
U.S. Department of Homeland Security
2707 Martin Luther King Avenue SE
Washington, DC 20528-065

Fernando Pineiro
FOIA Officer
U.S. Immigration & Customs Enforcement
Freedom of Information Act Office
500 12th Street SW, Stop 5009
Washington, DC 20536-5009

FOIA Officer
U.S. Customs and Border Protection
90 K Street NE
FOIA Division
Washington, DC 20229

Re: Freedom of Information Act (FOIA) Request – EXPEDITED PROCESSING

Dear FOIA Officers:

Al Otro Lado (“AOL”) and the Edwin F. Mandel Legal Aid Clinic at the University of Chicago (together, “Requesters”) submit this letter as a request for information under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, *et seq.*, to the U.S. Department of Homeland Security (“DHS”), U.S. Immigration & Customs Enforcement (“ICE”), and U.S. Customs and Border Protection (“CBP”). Requesters also seek a fee waiver, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 6 C.F.R. § 5.11(k), and expedited processing, pursuant to 5 U.S.C. §

552(a)(6)(E) and DHS regulations at 6 C.F.R. § 5.5(e). The justifications for the fee waiver and expedited processing are set out in detail following the request.

1. REQUESTS

All requests below relate to records¹ that were prepared, received, transmitted, collected, and/or utilized by ICE, CBP and/or DHS or prepared, received, transmitted, collected, and/or utilized by private contractors (including but not limited to CoreCivic, GEO, and Paragon) and that are now in the possession of ICE, CBP, and/or DHS at the following facilities (hereinafter the “facilities”): Adelanto Detention Center (“Adelanto”), Otay Mesa Detention Center (“Otay Mesa”), and all land ports of entry and Border Patrol stations in California. We ask that records provided be organized by the facility they relate to and provided in chronological order.

Requesters ask for the following records:

1. Medical files, with names and other personal identifying information redacted, of detainees who have reported respiratory or flu-like symptoms, or who have been tested for or diagnosed with COVID-19 from February 1, 2020 to present.
2. Records regarding the medical qualifications of medical personnel providing care at the facilities from February 1, 2020 to present.
3. Records related to precautions taken at the facilities because of the COVID-19 pandemic.
4. Records related to access of detainees, staff, and other persons in the facilities to personal hygiene supplies, including soap, hand sanitizer, disposable paper products, and personal protective equipment, and description of all supplies, including brand names and product names or types, and, for alcohol-based products, alcohol concentration.
5. Records related to agreements that detainees were asked to sign or are being asked to sign in exchange for receiving personal protective equipment.

¹ **The term “records” as used herein** includes, but is not limited to: communications, correspondence, directives, documents, data, videotapes, audiotapes, e-mails, faxes, files, guidance, guidelines, standards, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, manuals, technical specifications, training materials, and studies, including records kept in written form, or electronic format on computers and/or other electronic storage devices, electronic communications and/or videotapes, as well as any reproductions thereof that differ in any way from any other reproduction, such as copies containing marginal notations. **This request encompasses communications to or from facility ICE or contract employees’ personal accounts** on platforms such as WhatsApp or Signal, if they used such accounts to communicate regarding the requested topics and/or the general topic of the FOIA request. **References in the FOIA request to “COVID-19”** will also apply to records mentioning the following related terms: “coronavirus,” “corona virus,” “coronavirus disease 2019,” “2019-nCoV acute respiratory disease,” “novel coronavirus pneumonia,” “Wuhan virus,” “Wuhan coronavirus,” “Wuhan pneumonia,” “China virus,” “Chinese virus,” “severe acute respiratory syndrome coronavirus 2,” “SARS-CoV-2,” “2019 novel coronavirus,” “2019-nCoV,” “COVID-19 virus,” and any other terms used by the facilities to refer to the COVID-19 virus.

6. Records related to mold growth in any of the dormitories or cells in the facilities from February 1, 2020 to present.
7. Records containing the following information:
 - a. The number of detainees who have been taken to the hospital per week since February 1, 2020;
 - b. The number of detainees who have been granted parole from ICE custody after being taken to the hospital or within a week of seeking medical assistance per week since February 1, 2020;
 - c. The number of detainees who have been placed in solitary confinement/segregated housing since February 1, 2020 per week;
 - d. The number of detainees placed in solitary confinement/segregated housing who were later released on parole or taken to the hospital since February 1, 2020;
 - e. The number of detainees housed in negative pressure rooms since February 1, 2020;
 - f. The number of COVID-19 test kits obtained by ICE or contractors for the facilities per week;
 - g. The date that ICE or contractors first ordered or requested COVID-19 test kits and the date that ICE or contractors obtained the test kits requested for the facilities;
 - h. The number of detainees tested for COVID-19;
 - i. The number of detainees who have tested positive for COVID-19, including the dates each test was administered;
 - j. The number of ICE employee at the facilities who have tested positive for COVID-19;
 - k. The number of ICE employees at the facilities who have reported respiratory symptoms, fever, or contact with a COVID-19 infected individual;
 - l. The number of contract employees including GEO Group Employees or Core Civic employees at the facilities who have tested positive for COVID-19;
 - m. The number of detainees and ICE or contract employees experiencing flu-like symptoms since February 1, 2020;
 - n. The total capacity in and number of negative pressure rooms since February 1, 2020.
8. Records regarding the management of hunger strikes within the facilities.

9. Policies, procedures, protocols, or guidance related to private contractors and COVID-19.
10. Communications between ICE, CBP, and/or DHS and private contractors at the facilities relating to COVID-19.
11. Records related to transfers of confirmed or suspected COVID-19-infected individuals in Otay Mesa to K-Pod in Otay Mesa from April 10, 2020 to present.
12. Records concerning transfers from the special housing unit (“SHU”) in Otay Mesa to M-Pod in Otay Mesa from April 10, 2020 to present.

2. REQUEST FOR WAIVER OF FEES

Requesters ask that the agency waive all fees associated with this FOIA request. Such a waiver is warranted because disclosure of the information is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 6 C.F.R. § 5.11(k) (records furnished without charge or at a reduced rate if the information is in the public interest, and disclosure is not in commercial interest of the institution). In addition, Requesters have the ability to widely disseminate the requested information. *See Judicial Watch v. Rossotti*, 326 F.3d 1309 (D.C. Cir. 2003) (finding a fee waiver appropriate when the requester explained, in detailed and non-conclusory terms, how and to whom it would disseminate the information it received).

A. Disclosure of the Information Is in the Public Interest

Disclosure of the requested information will contribute significantly to public understanding of government operations and activities as they relate to the health and wellbeing of detained immigrants who are vulnerable to the COVID-19 pandemic. Information regarding government policies for protecting the health of detained persons is of great public interest because detained populations are vulnerable to the spread of COVID-19² and rely on the U.S. government, which is responsible for their detention, to take measures to protect them. Because of the rapid spread of COVID-19 in recent months, the public has limited information about how the virus is affecting detained populations and little knowledge of the specific actions U.S.

² Roxana Kopetman, *Federal Judge Orders California ICE Detention Center to Release Detainees, Ensure Social Distancing amid Coronavirus*, THE MERCURY NEWS (Apr. 23, 2020), <https://www.mercurynews.com/2020/04/23/federal-judge-orders-adelanto-ice-detention-center-to-release-detainees-ensure-social-distancing-amid-coronavirus/> (Describing federal judge’s order to release hundreds of detainees from ICE detention center because current living conditions render them extremely vulnerable to COVID-19); *ICE Releases Hundreds of Immigrants As Coronavirus Spreads in Detention Centers*, NPR (Apr. 16, 2020), <https://www.npr.org/sections/coronavirus-live-updates/2020/04/16/835886346/ice-releases-hundreds-as-coronavirus-spreads-in-detention-centers>; Meagan Flynn, *ICE Delayed Its Pandemic Response, Putting Detainees at “Substantial” Risk of Harm, Judge Finds*, WASHINGTON POST (Apr. 21, 2020), <https://www.washingtonpost.com/nation/2020/04/21/ice-coronavirus-detention-ruling/>; Monique O. Madan, *ICE Has Tested a Tiny Fraction of its Detainees for COVID-10. Most of Them Were Positive*, MIAMI HERALD (Apr. 22, 2020), <https://www.miamiherald.com/news/local/immigration/article242203726.html>.

officials are taking to protect those populations.³ The requested information is critically important to assist detained persons, families and friends of detained persons, attorneys, and the general public in understanding how the U.S. government treats people in its custody who are at serious risk due to the COVID-19 pandemic.

Requesters have the capacity, intent and demonstrated ability to disseminate the requested information to a broad cross-section of the public. AOL is a bi-national non-profit legal services organization established to serve indigent refugees, migrants, and deportees in the U.S. and Mexico. AOL staff regularly provide information and analysis to the media and the general public, as well as international organizations and human rights monitoring bodies, including the International Committee of the Red Cross, Amnesty International, the United Nations High Commissioner for Refugees, Women’s Refugee Commission, and Human Rights Watch. Additionally, AOL co-directors regularly lecture at professional and academic conferences, and at schools of law, medicine, public health, and universities, on the subject of border enforcement practices. Finally, AOL actively shares and disseminates information about its work and conditions on the U.S.-Mexico border through its various social media accounts, which have thousands of followers, including many immigration reporters. AOL will analyze and share the information obtained through this FOIA request via its social media accounts and other publicly accessible fora. If the responsive information is voluminous, AOL also will publish a summary analysis of such information and will disseminate that summary through its established networks. Finally, Requesters have regular contact with national and international print and news media and plan to share information gleaned from FOIA disclosures with interested media.

Thus, a fee waiver would fulfill Congress’s legislative intent in amending the FOIA. *See Rossotti*, 326 F.3d at 1312 (“Congress amended FOIA to ensure that it be liberally construed in favor of waivers for noncommercial requesters.”); *Citizens for Responsibility and Ethics in Washington v. U.S. Dep’t of Educ.*, 593 F. Supp. 2d 261, 268 (D.D.C. 2009) (“[FOIA’s] purpose . . . is to remove the roadblocks and technicalities which have been used by . . . agencies to deny waivers.”).

B. Disclosure of the Information Is Not Primarily in the Commercial Interest of Requesters

Requesters are 501(c)(3) not-for-profit organizations. We seek the requested information for the purpose of disseminating it to members of the public who have access to our public

³ Alan Gomez, Maria Clark & Rebecca Plevin, “*Terrified of Dying*”: *Immigrants Beg to Be Released from Immigration Detention as Coronavirus Spreads*, USA TODAY (Apr. 7, 2020), <https://www.usatoday.com/story/news/nation/2020/04/07/covid-19-hits-ice-detention-migrants-say-they-cant-clean-stay-safe/2953170001/> (describing limited information regarding ICE’s COVID-19 policies); Molly Parker & Brian Munoz, *Officials Tight-Lipped on Pulaski County Detention Center Outbreak as Detainees Fear for Their Lives*, THE SOUTHERN ILLINOISAN (Apr. 25, 2020), https://thesouthern.com/news/local/officials-tight-lipped-on-pulaski-county-detention-center-outbreak-as-detainees-fear-for-their-lives/article_b1805d49-6d56-53c6-a650-229ed70aed4f.html; *USA: Amid COVID-19 Pandemic, Authorities Must Release Immigration Detainees*, AMNESTY INTERNATIONAL (Apr. 7, 2020), available at <https://www.amnesty.org/en/latest/news/2020/04/usa-covid19-pandemic-authorities-must-release-immigration-detainees/> (noting lack of information about COVID-19 risks at ICE detention centers).

websites, our public social media feeds, and other free publications at no cost, for immigrants' rights advocacy, and not for the purpose of commercial gain.

C. Requesters AOL and The Edwin F. Mandel Legal Aid Clinic are Representatives of the News Media

Furthermore, Requesters also request a waiver of search fees on the grounds that Requesters qualify as “representative[s] of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II). Specifically, Requesters meet the statutory and regulatory definitions of “representative[s] of the news media” because they are “entit[ies] that gather[] information of potential interest to a segment of the public, use[] [their] editorial skills to turn the raw materials into a distinct work, and distribute[] that work to an audience.” 5 U.S.C. § 552(a)(4)(A)(ii)(note).⁴ See also *Nat'l Sec. Archive v. DOD*, 880 F.2d 1381, 1387 (D.C. Cir. 1989) (finding that an organization that gathers information, exercises editorial discretion in selecting and organizing documents, “devises indices and finding aids,” and “distributes the resulting work to the public” is a “representative of the news media” for purposes of the FOIA). Courts have applied this definition broadly, finding it to include organizations with websites that “do[] not resemble a ‘news medium’ in any traditional sense” but instead publish information solely to generate publicity for the organizations and their clients. *Judicial Watch, Inc. v. U.S. Dep't of Justice*, 133 F. Supp. 2d 52, 53 (D.D.C. 2000) (granting summary judgment to Judicial Watch on the issue of whether it qualified as a representative of the news media).

AOL meets this definition of a “representative of the news media” because it provides information to both the public and its broad client base, has a firm intention of expanding its dissemination activities by publishing written materials for its client base in the future, and collaborates with other media representatives to publish information in public reports. Disseminating information to the public is a critical component of AOL's work. AOL gathers information about issues affecting immigrants at the U.S.-Mexico border, such as information about legal developments as well as current events and trends that affect those populations. AOL then uses its editorial skills to turn that information into a form that can be easily accessed by the public and disseminates that information. For instance, AOL regularly updates its websites with press releases drawing attention to urgent issues affecting immigrants at the border, with the goal of better informing the public about these issues.⁵ This mode of disseminating information is virtually indistinguishable from the facts of *Judicial Watch, supra*, where Judicial Watch's press briefings on its website, aimed solely at drawing attention to its own activities as an activist group, were found sufficient to qualify it as a representative of the news media. AOL also regularly disseminates information to over fifteen thousand followers through its Twitter account.⁶ Recently, AOL's Litigation Director also gave a TED Talk informing the public about current immigration policies.⁷

⁴ See also 5 C.F.R. § 2604.103; 28 C.F.R. § 16.10(b)(6); 5 C.F.R. § 294.103(c); and 41 C.F.R. § 105-60.305-1(i).

⁵ See, e.g., <https://alotrolado.org/programs/border-rights-project/>.

⁶ See https://twitter.com/AlOtroLado_Org?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor.

⁷ See https://www.ted.com/talks/erika_pinheiro_what_s_really_happening_at_the_us_mexico_border_and_how_we_can_do_better.

In addition to these broad efforts to gather, edit, and disseminate information to the public, AOL also distributes targeted information to its client base, which constitutes one of AOL's primary activities. For instance, AOL gathers information about legal and policy developments affecting immigrants at the border and organizes this information into legal orientation and know-your-rights training sessions for asylum-seekers in Mexico. Much like an organization that edits raw material for a print publication, AOL must edit raw information into an accessible format to design and host these events. AOL is currently working to expand its information-disseminating activities by creating and distributing print materials similarly informing asylum-seekers of their legal rights. It thus has a "firm intention" to expand its activities as a representative of the news media in the future, supporting a finding that it qualifies as such a representative. *See Ctr. For Pub. Integrity v. U.S. Dep't of Health & Human Servs.*, No. CIV.A.06 1818 JDB, 2007 WL 2248071, at *6 (D.D.C. Aug. 3, 2007) (discussing how a "firm intention" of future publications can cure an otherwise inadequate showing that an entity is a representative of the news media). Finally, AOL collaborates with other organizations such as Amnesty International, Human Rights First, the Women's Refugee Commission, and Human Rights Watch to provide information for reports which are published to inform the public about immigration issues. To do this, AOL must gather raw material, edit it into a form that is useful to the publishing organization, and distribute that edited information to organizations that can incorporate it into published materials.

Courts have found that a variety of other organizations are "representatives of the news media" as well, even though they engage in litigation and lobbying activities in addition to disseminating information and educating the public. *See, e.g., Cause of Action v. IRS*, 125 F. Supp. 3d 145 (D.C. Cir. 2015); *Nat'l Sec. Archive*, 880 F.2d at 1387; *Leadership Conference on Civil Rights v. Gonzales*, 404 F. Supp. 2d 246, 260 (D.D.C. 2005); *Elec. Privacy Info. Ctr. v. Dep't of Defense*, 241 F. Supp. 2d 5, 10-15 (D.D.C. 2003) (finding that a non-profit public interest group that disseminated an electronic newsletter and published books was a "representative of the news media" for purposes of the FOIA).

The Edwin F. Mandel Legal Aid Clinic also collects, edits, and distributes information to the public so as to qualify it as a representative of the news media. The Immigrants' Rights Clinic, the component of the Edwin F. Mandel Legal Aid Clinic participating in this request, has already published several documents that compile and analyze information regarding legal developments that affect immigrant populations.⁸ While the Immigrants' Rights Clinic is a new component of the Edwin F. Mandel Legal Aid Clinic that was created earlier this year, and has therefore had limited time to create publications, other components of the Edwin F. Mandel Legal Aid Clinic have published extensive reports on various subjects in the past in order to inform the public about important legal issues.⁹ The Immigrants' Rights Clinic plans to use the information requested here to inform similar reports and publications in the future.

As a representative of the news media, Requesters plan to analyze, publish, and disseminate the information gathered through this request to the public. The records requested are not sought for commercial use and the Requesters plan to publicly disseminate the

⁸ *See* <https://www.law.uchicago.edu/clinics/immigrants>.

⁹ *See, e.g.,* <https://chicagounbound.uchicago.edu/ihr/> (compiling various in-depth reports on human rights issues published by the International Human Rights Clinic, another component of the Edwin F. Mandel Legal Aid Clinic).

information at no cost. On account of these factors, fees associated with responding to FOIA requests are regularly waived for non-profit public interest organizations like AOL and the Edwin F. Mandel Legal Aid Clinic which are “representatives of the news media.”

3. REQUEST FOR EXPEDITED PROCESSING

Finally, Requesters ask that this request be processed on an expedited basis. *See* 5 U.S.C. § 552(a)(6)(E) (mandating that agencies establish expedited processing regulations); 6 C.F.R. § 5.5(e) (DHS’ expedited processing regulations). This request qualifies for such expedited processing under three of the four scenarios laid out in 6 C.F.R. § 5.5(e)(1)(i)-(iv).

First, any delay in disclosing the requested information “could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.” 6 C.F.R. § 5.5(e)(1)(i); *see also* 5 U.S.C. § 552(a)(6)(E)(v)(I). Hundreds of immigrant detainees currently held in DHS detention facilities across Southern California are in danger of contracting COVID-19. That risk may be exacerbated by those facilities’ inability to comply with CDC social distancing standards and ICE’s own failure to follow its guidelines for containing communicable diseases. Many immigrant detainees have preexisting conditions or comorbidities that place them at higher risk for severe illness arising from COVID-19.¹⁰ Those risks are not limited to ICE detention facilities. As of May 3, 2020, 326 CBP employees nationwide – including 56 in California – had been diagnosed with COVID-19.¹¹

Otay Mesa is currently the site of the largest coronavirus outbreak of any ICE detention facility nationwide, with 123 ICE detainees – in addition to 66 U.S. Marshals Service detainees – testing positive for COVID-19 as of May 4, 2020.¹² Although U.S. District Judge Dana Sabraw has ordered the release of medically vulnerable immigrant detainees at Otay Mesa, only two had been released from the facility as of May 4.¹³ In late April, twelve immigrant detainees at Otay Mesa were on hunger strike in order to protest the lack of sanitary precautions being taken at the facility.¹⁴

¹⁰ *See* Shannon Dooling, WBUR, ‘*They Fear That They’re Going To Die Here*’; *ICE Detainees in Bristol County Speak Out on COVID-19 Concerns* (Mar. 24, 2020), <https://www.wbur.org/news/2020/03/24/bristol-county-detainees-immigration-ice-covid-19-coronavirus>; Centers for Disease Control and Prevention, *People Who Are at Higher Risk for Severe Illness* (Apr. 15, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>.

¹¹ U.S. Customs and Border Protection, *CBP COVID-19 Updates and Announcements* (May 3, 2020), available at <https://www.cbp.gov/newsroom/coronavirus#>.

¹² Kate Morrissey, SAN DIEGO UNION-TRIBUNE, *After judge’s order, ICE has released just 2 Otay Mesa detainees identified as ‘medically vulnerable’ so far* (May 4, 2020), <https://www.sandiegouniontribune.com/news/immigration/story/2020-05-04/after-judges-order-ice-has-so-far-released-2-otay-mesa-detainees-identified-as-medically-vulnerable>; Alison St John and Marissa Cabrera, KPBS, *ICE Slow to Release Otay Mesa Detainees at High Risk from COVID-19* (May 5, 2020), <https://www.kpbs.org/news/2020/may/05/ice-slow-release-otay-mesa-detainees-high-risk-cov/>.

¹³ *See* Morrissey, *supra* note 12.

¹⁴ Max Rivkin-Nadler, KPBS, *Immigrant Advocates Try to Deliver Masks to Otay Mesa Detention Center* (Apr. 24, 2020), <https://www.kpbs.org/news/2020/apr/24/immigrant-advocates-try-deliver-masks-site-biggest/>.

At the Adelanto Detention Center, only six out of the 1,295 immigrant detainees in ICE custody had been tested for COVID-19 as of April 23, 2020.¹⁵ Adelanto has an extensive history of failing to provide detainees held at the facility with prompt and adequate medical care.¹⁶ Nationwide, approximately 48% of immigrant detainees in ICE custody who have been tested for COVID-19 had confirmed cases of the virus.¹⁷ As of May 5, 2020, over 71,000 people with COVID-19 have died in the United States.¹⁸ Immigrant detainees throughout Southern California are in constant danger of being exposed to COVID-19; for many of them, infection with COVID-19 might result in serious bodily harm or death.

Second, delay in disclosing the requested information could lead to “[t]he loss of substantial due process rights.” 6 C.F.R. § 5.5(e)(1)(iii). Immigrant detainees in federal civil detention are protected by the procedural and substantive guarantees of the Fifth Amendment. *See Demore v. Kim*, 538 U.S. 510, 523 (2003) (procedural due process); *Bell v. Wolfish*, 441 U.S. 520, 535 (1979) (substantive due process). The government is required to affirmatively provide individuals in its custody with medical care, reasonable safety, and protection from harm. *DeShaney v. Winnebago County Dep’t of Social Servs.*, 489 U.S. 189, 200 (1989). A failure to do so deprives detainees of their due process rights. *Id.* Individuals in immigration detention are entitled to greater due process protections than those in criminal pretrial detention, *see Jones v. Blanas*, 393 F.3d 918, 933-34 (9th Cir. 2004), and ought to receive “more considerate treatment and conditions of confinement than criminals whose conditions of confinement are designed to punish.” *Youngberg v. Romeo*, 457 U.S. 307, 322 (1982). If the government’s failure to provide adequate medical safeguards for immigrant detainees deprives them of their due process rights, it is critical to release such records immediately so that Requesters can seek to protect immigrant detainees’ rights through public education, advocacy, and other means.

Finally, this request seeks records on “[a] matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity which affect public confidence.” 6 C.F.R. § 5.5(e)(1)(iv). The public and media have shown a “widespread and exceptional . . . interest in” the issue of COVID-19 infections in immigration detention facilities and the associated risks of contagion, sickness, and death that immigrant detainees presently face in ICE and CBP custody.¹⁹ As explained *supra*, the requested records will be disseminated both by AOL and its contacts in national and international news media.

¹⁵ Rebecca Plevin, PALM SPRINGS DESERT SUN, *Just 6 out of nearly 1,300 immigrants at Adelanto detention center tested for COVID-19, ICE says* (May 1, 2020),

<https://www.desertsun.com/story/news/politics/immigration/2020/05/01/adelanto-detention-center-only-6-immigrants-tested-covid-19-ice-says/3065226001/>.

¹⁶ *See* Paloma Esquivel, LOS ANGELES TIMES, *‘We don’t feel OK here’: Detainee deaths, suicide attempts and hunger strikes plague California immigration facility* (Aug. 8, 2017), <https://www.latimes.com/local/lanow/la-me-ln-adelanto-detention-20170808-story.html>; Press Release, Detention Watch Network, *Third Death in Immigration Detention Makes Adelanto Detention Center the Deadliest Facility in 2017* (Jun. 6, 2017), available at <https://www.detentionwatchnetwork.org/pressroom/releases/2017/third-death-immigration-detention-makes-adelanto-detention-center-deadliest>.

¹⁷ Plevin, *supra* note 15.

¹⁸ *See* N.Y. TIMES, *Coronavirus in the U.S.: Latest Map and Case Count* (May 5, 2020), available at <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html>.

¹⁹ *See* Press Release, Senator Kamala Harris, *Harris Statement on Inhumane Conditions at Otay Mesa Detention Center* (Apr. 12, 2020), available at <https://www.harris.senate.gov/news/press-releases/harris-statement-on->

There has been litigation against the federal government with respect to its failure – both in Southern California and across the country – to take adequate precautions to ensure the health and safety of immigrant detainees in DHS custody. Many of those cases are still pending. *See e.g., Dada v. Witte*, 1:20-cv-00458-DDD-JPM (W.D. La.) (arguing that civil detention during the COVID-19 pandemic violates immigrant detainees’ due process rights). Judges have granted injunctive relief requiring ICE to reduce detainee populations in detention facilities due to the ongoing danger presented by COVID-19. *See Order Granting In Part Plaintiffs’ Motion for Class Certification and Granting Plaintiffs’ Motion for Subclass-wide Emergency Temporary Restraining Order, Alcantara v. Archambeault*, 3:20-cv-00756-DMS-AHG (S.D. Cal. May 1, 2020); *Gayle v. Meade*, 1:20-cv-21553, 2020 WL 2086482 (S.D. Fla. Apr. 30, 2020). The nationwide scope of COVID-19-related litigation by and on behalf of immigrant detainees – and the national media’s interest in the topic – suggest that the government’s integrity in responding to the COVID-19 pandemic in immigrant detention facilities is a subject of extensive public scrutiny and concern.

Pursuant to 6 C.F.R. § 5.5(e)(3), the undersigned certify that the information provided above as a basis for requesting expedited processing is true and correct to the best of their knowledge and belief.

[inhumane-conditions-at-otay-mesa-detention-center](#); Press Release, Senator Dianne Feinstein, Feinstein to ICE: Protect Detained Immigrants from Coronavirus, Allow Supervised Release (Apr. 27, 2020), available at <https://www.feinstein.senate.gov/public/index.cfm/press-releases?id=D4B25E9D-55D4-4B69-A146-8398827EE027> (summarizing Senator Feinstein’s April 27, 2020 letter to Acting ICE Director Matthew T. Albence); Kate Morrissey, SAN DIEGO UNION-TRIBUNE, *As coronavirus spreads in federal detention center, calls for widescale release grow* (Apr. 12, 2020), <https://www.sandiegouniontribune.com/news/immigration/story/2020-04-12/coronavirus-spread-in-otay-mesa-detention-center>; Andrea Castillo, LOS ANGELES TIMES, *Judge Orders ICE to reduce number of immigrant detainees at California facility* (April 24, 2020), <https://www.latimes.com/california/story/2020-04-24/judge-orders-ice-reduce-immigrant-detainees-adelanto-facility>; Tanvi Misra, ROLL CALL, *ICE’s COVID-19 test figures hint at health crisis in detention* (April 17, 2020), <https://www.rollcall.com/2020/04/17/ices-covid-19-test-figures-hint-at-health-crisis-in-detention/>; Jessica Schladebeck, NEW YORK DAILY NEWS, *San Diego immigration detention center turns down masks donated to protect detainees from coronavirus* (Apr. 25, 2020), <https://www.nydailynews.com/coronavirus/ny-coronavirus-san-diego-immigration-detention-center-masks-donated-20200425-4ofwikhmijeovo357f63x2k4oe-story.html>; *See also* Joshua Matz, THE ATLANTIC, *The Coronavirus Is Testing America’s Commitment to People’s Constitutional Rights* (April 20, 2020), <https://www.theatlantic.com/ideas/archive/2020/04/coronavirus-jails-constitutional-rights/610216/> (examining immigrant detainees’ COVID-related due process claims).

We appreciate your prompt attention to this request. In accordance with DHS regulations, we expect to receive a decision on our request for expedited processing within 10 calendar days. *See* 6 C.F.R. § 5.5(e)(4). We also expect a written response to our FOIA request within 20 business days. 5 U.S.C. § 552(a)(6)(A)(i). We reserve the right to appeal a decision to deny a waiver of fees, withhold any records, or deny expedition of this request. If this request is denied in whole or in part, we ask that any deletions or omissions be justified by reference to specific exemptions of the FOIA. We expect the release of all segregable portions of otherwise exempt material. If you have any questions, do not hesitate to contact the undersigned by telephone or email.

Sincerely,

/s/ Nicole Ramos

Nicole Ramos, Esq.
Project Director, Border Rights Project
Al Otro Lado
511 E. San Ysidro Blvd., # 333
San Ysidro, CA 92173
nicole@aolotrolado.org
(619) 786-4866

/s/ A. Nicole Hallett

A. Nicole Hallett, Esq.
Associate Clinical Professor of Law
Director, Immigrants' Rights Clinic
Edwin F. Mandel Legal Aid Clinic
The University of Chicago Law School
6020 S. University Ave.
Chicago, IL 60637
nhallett@uchicago.edu
(203) 910-1980