

United States Congress

Washington DC, 20510

May 28, 2020

The Honorable Joseph V. Cuffari
Office of Inspector General
Department of Homeland Security
245 Murray Lane SW
Washington, D.C. 20528-0305

Dear Inspector General Cuffari:

We write to ask for a thorough investigation into the recent death of a detained person at Otay Mesa Detention Center (Otay Mesa) due to COVID-19. We request that your investigation include an assessment of the sufficiency of U.S. Immigration and Customs Enforcement's (ICE's) preparedness for a COVID-19 outbreak, including any measures to prevent its spread among the detained population and ensure the testing, treatment, and care of persons detained at Otay Mesa during this pandemic. Since the beginning of the coronavirus outbreak in the United States, Members of Congress have requested information from the Department of Homeland Security (DHS) and ICE to understand how the Department manages the risk of COVID-19 outbreaks in detention centers, and we have yet to receive sufficient answers. Based on the scant information that DHS and ICE have made available and public reports, ICE has taken insufficient measures to protect individuals in its custody and staff working in detention facilities.

As of today, 1,327 detained persons have tested positive for COVID-19 out of 2,620 individuals who have been tested,¹ although this may be an undercount of the number of infections since ICE has not implemented widespread testing of all detained persons. According to ICE, it has released at least 900 medically vulnerable individuals since March.² The Otay Mesa Detention Center has suffered the most significant coronavirus outbreak among ICE detention facilities; at least 217 total detained persons have tested positive, including 158 in ICE custody.³ ICE has stated that the agency will consider releasing more detained persons based on medical conditions and public safety considerations.

On May 6, Carlos Escobar-Mejia died at Paradise Valley Hospital in National City, CA after contracting COVID-19 in the Otay Mesa Detention Center. He was held in ICE custody for nearly four months and was identified as medically vulnerable after he was hospitalized. Advocacy organizations have described the following dangerous conditions at Otay Mesa:

¹ ICE, Guidance on COVID-19, "Confirmed Cases" (May 28, 2020), *available at* <https://www.ice.gov/coronavirus>.

² Perla Trevizo, ProPublica, "COVID-19 Cases at One Texas Immigration Detention Center Soared in a Matter of Days. Now, Town Leaders Want Answers" (May 11, 2020), *available at* <https://www.propublica.org/article/covid-19-cases-at-one-texas-immigration-detention-center-soared-in-a-matter-of-days-now-town-leaders-want-answers>.

³ Kate Morrissey, San Diego Tribune, "Judge denies request to release medically vulnerable federal inmates from Otay Mesa Detention Center" (May 11, 2020), *available at* <https://www.sandiegouniontribune.com/news/immigration/story/2020-05-11/judge-denies-request-to-release-medically-vulnerable-federal-inmates-from-otay-mesa-detention-center>.

- cells are populated by up to eight people at once with bunk beds fewer than six feet apart;
- when a detained person has tested positive, ICE has “cohorted” dozens of people who were in the same housing unit as that person, which means they were locked up together for two weeks in close proximity despite public health guidance recommending physical distancing to prevent the spread of infection;
- detained persons share sinks, toilets, telephones, and showers, with no disinfectant cleaner available for after use;
- soap runs out frequently and refills are inconsistent, forcing detained persons who cannot afford to buy soap to go without it;
- mealtime is communal, with detained persons lined up in close proximity to receive their meals, compelling them to choose between eating at overcrowded tables or in their cells, close to other detained persons and toilets;⁴ and
- detained persons have reported insufficient medical services and potential retaliation against individuals who report concerns regarding the same.

Additionally, a group of 43 individuals currently detained at Otay Mesa describe serious medical neglect by staff at Otay Mesa.⁵ We urge you to investigate and assess conditions at Otay Mesa, including the sufficiency of policies, protocols, and practices governing decision-making about social distancing, hygiene, and personal protective equipment by both ICE and third-party contractors operating at the facility. We also urge you to identify the actual availability of testing, care, and treatment for detained persons; and the availability of testing for all staff at Otay Mesa, including individuals employed by third-party contractors.

Your robust and thorough investigation is imperative to preventing COVID-19-related illness and death in ICE custody. In addition to seeking records from ICE and interviewing staff at Otay Mesa, this investigation should include interviews with legal service providers and detained persons (with adequate precautions to prevent retaliation and ensure anonymity).

Thank you for your time and attention to this matter. We respectfully request a response as soon as possible.

Sincerely,



Scott H. Peters
Member of Congress



Juan Vargas
Member of Congress



Kamala D. Harris
United States Senator

⁴ See ACLU of San Diego and Imperial Counties, “ACLU Sues for Drastic Reduction in Population of Overcrowded Otay Mesa, Imperial Detention Centers” (Apr. 21, 2020, available at <https://www.aclusandiego.org/aclu-sues-for-drastic-reduction-in-population-of-overcrowded-otay-mesa-imperial-detention-centers/>).

⁵ See Letter from Oscar Nevarez, M Pod of Otay Mesa (May 14, 2020), available at <https://imadvocates.org/a-cry-for-help-letter-from-oscar-nevarez-m-pod-of-otay-mesa-in-honor-of-carlos-escobar-mejia/>.

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