



March 20, 2020

Via Electronic Mail

Sheriff Don Barnes
Orange County Sheriff's Office
320 N. Flower Street, Suite 108
Santa Ana, CA 92703
ddbarnes@ocsd.org
rjpeterson@ocsd.org

Re: In Light of COVID-19, Immediately Stop Transfers of Individuals into the Custody of Federal Immigration Authorities

Dear Sheriff Don Barnes,

In light of the COVID-19 pandemic, we write today to urge you to (1) immediately stop the transfers of all people in your custody into the custody of federal immigration authorities and (2) inform your local public defenders association of any detainees you receive from immigration authorities.

Governor Newsom has already declared a state of emergency and last night made an unprecedented decision to order all Californians to “shelter in place” as a way to contain the spread of this deadly disease. Yet, despite these extreme measures taken to protect Californians, federal immigration authorities are continuing to detain individuals, placing them in detention centers that have a history of medical neglect.¹ Immigration and Customs Enforcement’s (ICE) recently issued guidance stating that they will only focus on detaining those who are “public safety risks and individuals subject to mandatory detention based on criminal grounds.”² However, immigration enforcement agencies have a history of not following their own guidance. Most recently, despite their sensitive locations memorandum that claims no enforcement operations will occur in hospitals, there were reports of the agency arresting an individual in a hospital.³

¹ Andrea Castillo, ICE provides ‘deplorable’ healthcare to detained immigrants, advocates allege in massive lawsuit, Los Angeles Times, August 19, 2019, <https://www.latimes.com/california/story/2019-08-19/immigrant-detention-medical-care-lawsuit>; *Management Alert – Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California*, Department of Homeland Security Office Inspector General, September 27, 2018, <https://www.oig.dhs.gov/sites/default/files/assets/Mga/2018/oig-18-86-sep18.pdf>.

² *Updated ICE statement on COVID-19*, U.S. Immigration and Customs Enforcement, March 18, 2020, <https://www.ice.gov/news/releases/updated-ice-statement-covid-19>.

³ Noah Lanard, *The Right and Wrong Lessons to Take from that Viral Photo of an ICE Arrest at a Hospital*, Mother Jones, March 13, 2020, <https://www.motherjones.com/politics/2020/03/the-right-and-wrong-lessons-to-take-from-that-viral-photo-of-an-ice-arrest-at-a-hospital/>.

Medical experts have recommended meticulous personal hygienic practices and social distancing as the most effective tools to combat the spread of the virus. This means staying at least three feet away from someone who coughs or sneezes, avoiding or limiting all physical contact, washing your hands regularly with soap and water, and using alcohol-based hand sanitizer to clean your hands after coughing, sneezing, or coming into contact with potentially exposed surfaces, objects, or people. With this in mind, public health experts have clearly stated that preventing the harm inflicted by COVID-19 can become immensely more difficult for people involved in the criminal legal system, especially those in detention. Even more, there is the very likelihood that an individual may become, unknowingly or otherwise, infected while in detention and then be released into the community, causing the virus to spread unnecessarily.

In order to avoid the spread of this infectious disease that is already prognosed to wreak havoc on our already burdened health facilities, we strongly urge your office to stop all voluntary transfers to federal immigration authorities, unless it is pursuant to a judicial warrant or otherwise required by law. This includes custodial transfers and any time your office turns someone over to immigration authorities in nonpublic areas of your facility or otherwise facilitates that person's arrest. The practice of turning people over to immigration authorities is completely discretionary and, in this moment of unprecedented crisis, must stop.

Furthermore, we strongly recommend you to immediately notify your local public defenders association via electronic mail of any immigration detainees you receive from immigration authorities. Various counties throughout the state already have this practice in place. Knowing whether an individual has an immigration detainer is helpful to public defenders in advising their clients of any immigration consequences they may face for criminal conviction and also enables them to prepare for what, if anything, might happen to their clients after being released from your custody.

Please feel free to reach out to me at mromani@aclunc.org should you have any questions or concerns. Thank you.

Sincerely,



Maria Romani
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