



March 10, 2021

Via Email

Thomas Decker
Director, New York Field Office
U.S. Immigration and Customs Enforcement
26 Federal Plaza, Suite 9-110
New York, NY 10278

RE: COVID-19 Vaccination Access to Individuals in Immigration Detention in the New York City Area

Dear Director Decker:

On behalf of the three organizations that comprise the New York Immigrant Family Unity Project and the people we represent who are held in civil immigration detention in county jails in the New York City area,¹ we write seeking information about plans U.S. Immigration and Customs Enforcements (“ICE”) has to provide COVID-19 vaccine access to the many people in immigration detention. We are concerned by the lack of information available to people in immigration detention, their attorneys, or to the public, about whether, when, and how ICE plans to ensure vaccine access for people living in these confined settings with a high risk of COVID-19 transmission. We ask that you provide details regarding ICE’s plan to ensure vaccine access for people detained in the County Jails, including the Bergen County Jail (“BCJ”) and Orange County Correctional Facility (“OCCF”). Any such plan should include educational and informational resources to ensure that all individuals can make informed decisions about their medical care. To the extent that there is no plan yet in place to provide vaccine access to these individuals, we urge you to develop one as soon as possible to protect the health and safety of those at these facilities and in the community beyond.

The need for COVID-19 vaccine access at jails, prisons, and immigration detention facilities like BCJ and OCCF is clear.² Jails, by their very nature as congregate settings, are already prone to

¹ Most notably, these facilities include the Bergen County Jail in Hackensack, NJ, the Hudson County Correctional Facility in Kearny, NJ, and the Orange County Correctional Facility in Goshen, NY (collectively “County Jails” or “Facilities”).

² See, e.g., Emily Wang et al., *Recommendations for Prioritization and Distribution of COVID-19 Vaccine in Prisons and Jails*, Dec. 16, 2020, https://justicelab.columbia.edu/sites/default/files/content/COVID_Vaccine_White_Paper.pdf; Aviva Stahl, *Prisons have already failed to contain Covid-19. What happens when the new variants arrive?*, VOX, Jan. 30, 2021, <https://www.vox.com/22256219/covid-19-new-variants-prisons-jails-vaccines-masks>.

outbreak of infectious disease.³ Individuals in these facilities live, sleep, and eat in close proximity to one another. The most basic precautions to prevent spread of COVID-19, such as social distancing and use of personal protective equipment, are nearly impossible in these settings. Immigration detention facilities have proven particularly vulnerable to outbreak, with rates of infection 13.4 times higher than the general population.⁴

In light of the increased threat that COVID-19 poses in congregate settings like the County Jails, public health experts—including those at the Centers for Disease Control and Prevention—have nearly uniformly urged policymakers to ensure that people in detention facilities be prioritized for COVID-19 vaccine access. Indeed, another federal agency, the Bureau of Prisons, developed a plan to provide vaccine access to staff and individuals who are incarcerated in federal correctional facilities, delivering vaccines to more than half such facilities in the country by mid-January 2021.⁵ In contrast, ICE has not published any comparable plans, and it is not clear whether ICE has even begun offering vaccinations to those detained in the County Jails. In light of the dangerous conditions at these facilities, ICE’s lack of transparency and failure to timely develop and implement a vaccination plan for those in immigration detention conflicts with CDC guidelines, actions of sister agencies, and ICE’s own declared commitment to ensuring safe living conditions and access to healthcare.⁶

Beyond access, any vaccination plan at ICE facilities must also include education about the vaccine being offered. It was recently reported that at the Hudson County Jail, half of the detainees opted not to get the vaccine when it was offered, many reporting that no information about the shot was provided.⁷ Without information and education, low acceptance should not be surprising. It is broadly accepted that additional education and resources are necessary as part of a vaccine roll out plan particularly in communities of color, where people are often distrustful of new medical treatments because of a history of medical experimentation.⁸ The same is true for people detained or incarcerated in carceral settings, like BCJ and OCCF. Beyond the historical context, people detained or incarcerated have had limited access to information throughout the pandemic, often turning to our office, friends, and family outside of the facilities for the most basic information. Further, the hierarchical constraints inherent in carceral settings like BCJ and

³ Laura Hawks, MD, et al, *COVID-19 in Prisons and Jails in the United States*, 180(8) JAMA Intern Med. 1041 (August 2020), <https://jamanetwork.com/journals/jamainternalmedicine/article-abstract/2765271> (“The infrastructure of most prisons and jails is ... conducive to spreading disease. Moreover, people who are incarcerated will be at higher risk of exposure, as correctional officers and other staff frequently leave the facility and then return. In prisons and jails, social distancing is typically a physical impossibility.”).

⁴ Parsa Erfani, et al., *COVID-19 Testing and Cases in Immigration Detention Centers*, 325(2) JAMA 182–184 (October 2020), <https://jamanetwork.com/journals/jama/fullarticle/2772627>.

⁵ Federal Bureau of Prisons, *COVID-19 Vaccination Efforts Commended* (Jan. 16, 2021) available at bop.gov/resources/news/20210116_covid_vaccine_efforts_commmended.jsp.

⁶ *ICE Detention Standards*, U.S. Immigration and Customs Enforcement (Feb. 24, 2012), available at <https://www.ice.gov/factsheets/facilities-pbnds>.

⁷ Daniel Parra, *COVID-19 Vaccination Begins in Hudson County Jail, But Half of ICE Detainees Refused*, City Limits, Feb. 9, 2021, <https://citylimits.org/2021/02/09/covid-19-vaccination-begins-in-hudson-county-jail-but-half-of-ice-detainees-refused/>.

⁸ See Pien Huang, *You Can’t Treat If You Can’t Empathize: Black Doctors Tackle Vaccine Hesitancy*, NPR, Jan. 19, 2021, <https://www.npr.org/sections/health-shots/2021/01/19/956015308/you-cant-treat-if-you-cant-empathize-black-doctors-tackle-vaccine-hesitancy>.

OCCF, which may include distrust of health authorities, must be considered in developing any meaningful plan to make vaccines accessible to those in immigration detention.

We ask that you respond to this letter by March 15, 2021, explaining how you intend to provide access to the COVID-19 vaccine to people detained at the BCJ and OCCF, including but not limited to clarifying:

1. How are people detained at BCJ and OCCF identified and prioritized, in comparison to each other, in the distribution plan?
2. Can people request to receive the vaccine, or do they have to wait to be identified by these facilities?
3. What efforts, if any, is ICE taking to secure vaccines?
4. Which county and jail officials are tasked with COVID-19 vaccine distribution at BCJ and OCCF?
5. What plans exist to ensure that individuals who are released after receiving an initial vaccine dose while detained are able to obtain a timely second dose of the vaccine following release?
6. What information and education will be provided to people detained at BCJ and OCCF regarding the COVID-19 vaccine?
7. What, if any, opportunities are being made available for individuals at BCJ and OCCF to ask questions about the vaccine?
8. Who, if anyone, at ICE is designated to provide information and answer questions about the vaccine for people detained by the New York Field Office?

We are available to provide more information or, to the extent possible, to work with you to ensure the broadest vaccine access for the people we serve. Please contact Ellen Pachnanda by email at epachnanda@bds.org or phone at 347-633-4166, for further information or with questions. We look forward to hearing from you on this important issue.

Sincerely,



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