



April 8, 2015

**Via U.S. Mail**

Timothy S. Aitken, Field Office Director  
Craig Meyer, Assistant Field Office Director  
U.S. Immigration and Customs Enforcement  
Enforcement and Removal Operations  
630 Sansome Street  
San Francisco, CA 94111

Re: New Immigration Detention Facility in Valley Fever Zone

Dear Mr. Aitken and Mr. Meyer:

We are deeply concerned about the U.S. Immigration and Customs Enforcement's ("ICE") recent announcement that it will be transporting and detaining hundreds of immigrants in a privately operated facility, known as Mesa Verde, in Bakersfield, California. Mesa Verde is located in a region that is known to have a high risk of *Coccidioidomycosis*, commonly known as "valley fever." The risk of contracting valley fever in the San Joaquin Valley is so great that federal courts have enjoined criminal detention in that region for certain inmates. ICE detainees who stand at significant risk of being deported to countries whose medical systems have no experience with valley fever cannot be responsibly housed in this region. Your plans raise serious constitutional concerns and we urge you to immediately halt all transfers to the Mesa Verde Facility until you have studied the issue and implemented precautionary measures to reduce the risk of exposure during transport to and detention at the Mesa Verde Facility.

**Valley fever poses a grave health risk for many immigrants who will be detained at the new facility.**

Valley fever is an infectious disease caused by inhaling airborne spores of a fungus (*Coccidioides* or "cocci") that lives in the soil of certain arid regions of the southwestern United States. Cocci spores reproduce in the lungs and may lead to symptoms of valley fever about one to three weeks after exposure. If left untreated, the disease may spread to other parts of the body ("disseminated disease") or cause other severe health complications, such as severe pneumonia or meningitis. There is no cure or vaccine for valley fever and some infected persons require lifetime medical treatment. See California Department of Public Health, *Epidemiologic Summary of Coccidioidomycosis in California, 2009-2012*, 1, available at: <http://www.cdph.ca.gov/programs/sss/Documents/CocciEpiSummary09-12.pdf>.

Valley fever is highly endemic in the San Joaquin Valley. *Id.* According to the California Department of Public Health, Kern County has among the highest rates of valley fever cases in the state. *Id.* at 3. Moreover, the region surrounding Bakersfield, where the Mesa Verde Facility is located, has the second-highest rate of valley fever incidents in Kern County. *See* Kern County Public Health Services Department, *Kern County Valley Fever Cases by Region*, available at: <http://kerncountyvalleyfever.com/kern-county-valley-fever-cases-by-region/>. In addition, incarcerated persons in the San Joaquin Valley have rates of illness from cocci infections that are dramatically higher than the general population. *See id.* (noting that persons in federal, state, or local penal institutions have rates of infection that are two to four times higher than rates in the community).

Certain demographic groups and individuals with certain health conditions are at particularly high risk of developing the disseminated disease or suffering other health complications. People of color, including Black, Hispanic, and Asian people, are at particularly high risk, as are individuals with chronic illnesses or weak immune systems. Center for Disease Control, *Valley Fever*, available at: <http://www.cdc.gov/features/valleyfever/>; California Dept. of Public Health, *Valley Fever and African Americans, Filipinos, and Hispanics*, available at: [www.cdph.ca.gov/HealthInfo/discond/Documents/VFRaceEthnicity.pdf](http://www.cdph.ca.gov/HealthInfo/discond/Documents/VFRaceEthnicity.pdf). Women in their third trimester of pregnancy and immediately postpartum are also at high risk of developing severe forms of valley fever. *Id.* The risk factors for valley fever are “well-known and undisputed.” *Plata v. Brown*, 2013 WL 3200587 at \*24 (N.D. Cal., June 24, 2013).

In light of the serious health risks to incarcerated individuals in the San Joaquin Valley, the California Department of Corrections and Rehabilitation (“CDCR”) stopped sending inmates with certain health conditions to all eight prison facilities in the region in 2007. *Id.* at 6. In 2013, a federal court ordered CDCR to expand its policy to also exclude African Americans and Filipinos from two of the facilities with the highest risk and to transfer out any inmates with certain health conditions. *Id.* at 24.

**Detained immigrants who become seriously ill may not receive adequate medical care in the facility or after they are deported to their home countries.**

If left untreated, valley fever can become extremely serious and even fatal. Yet the private, for-profit company that ICE has contracted with to operate the Mesa Verde has failed on many occasions to provide adequate medical care to detainees in its custody. In 2012, GEO Group’s failures led twenty-six members of Congress to request an investigation of the GEO Group-operated Broward Transitional Center in Florida after hearing heinous reports of inadequate medical care for detained immigrants. Letter from Congressional Members Demanding an Investigation of Broward Transitional Center, Sept. 13, 2012 (noting, among other reports, that a woman “was returned to her cell on the same day she had emergency ovarian surgery and that she suffered bleeding and inadequate follow-up care”). The same year, the Department of Justice released a report finding “systematic, egregious, and dangerous practices,” including inadequate medical care, at a GEO Group facility in Mississippi. Department of Justice: Civil Rights Division, *Investigation of the Walnut Grove Youth Correctional Facility*,

20-33, Mar. 20, 2012, available at:

<http://www.justice.gov/crt/about/spl/documents/walnutgrovefl.pdf>. At another GEO Group facility in Pennsylvania, seven people died in less than two years, resulting in several lawsuits alleging that the facility failed to provide adequate medical care. *See* Alex Rose, “A changing of the guard at county prison,” Daily Times News, Jan. 4, 2009, available at: <http://www.delcotimes.com/general-news/20090104/a-changing-of-the-guard-at-county-prison>.

In addition to the risk of inadequate medical care while detained, individuals who become seriously ill may face deportation to countries with medical systems that are ill-equipped to treat valley fever. Both the Inter-American Commission on Human Rights and the European Court of Human Rights have recognized that deporting individuals with life-threatening illnesses to countries where they are unlikely to receive adequate medical care violates basic human rights.<sup>1</sup> Valley fever is unique to certain regions of the United States and Central and South America. Outside those regions, medical professionals are unlikely to have much experience recognizing or treating this serious illness.

**ICE should immediately halt all transfers to the Mesa Verde Facility until it has fully studied the risk and taken appropriate precautionary measures.**

Prison officials are liable under the Eighth Amendment prohibition of cruel and unusual punishment when they “know that inmates face substantial risk of serious harm and disregard that risk by failing to take reasonable measures to abate it.” *Farmer v. Brennan*, 511 U.S. 825, 847 (1994). The Ninth Circuit has held that the same standard applies to criminal pretrial detainees under the Fifth and Fourteenth Amendments. *Clouthier v. County of Contra Costa*, 592 F.3d 1232 (9th Cir. 2010). ICE owes at least the same constitutional duty to protect civil detainees from harm as a penal institution would owe to criminal pretrial detainees or prisoners. The risk of valley fever to certain populations incarcerated in the Central Valley is well-known and the duties of penal institutions incarcerating individuals in these areas is clear. *See Plata v. Brown*, 2013 WL 3200587 at \*24 (N.D. Cal., June 24, 2013). ICE must take at least the same level of precautions as CDCR has taken, if not greater precautions, considering that immigrants are held in civil detention and face deportation to countries where they may not receive adequate medical care.

Despite this well-known risk, ICE has not announced any precautionary measures with respect to its new facility. We urge you to stop all immigration detention at the facility unless and until a study is conducted to determine whether adequate precautions can be adopted and such precautions are put in place. This should be done irrespective of any promises or

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<sup>1</sup>Inter-American Commission on Human Rights, *Andrea Mortlock Case*, Judgment of July 25, 2008, report no. 63/08, case 12.534 (deporting a person with HIV to a country with substandard health care for person with HIV would violate the American Declaration’s protection against “cruel, infamous, or unusual punishment”); European Court of Human Rights, *D v. the United Kingdom*, no. 30240/96, Judgment of May 5, 1997, ECHR 1997-III no. 37 (removal of an individual in the advanced stage of HIV/AIDS to a country where he was unlikely to get treatment or care amounts to inhuman treatment).

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representations made by ICE to GEO Group that the agency would supply a guaranteed minimum population of detainees to the facility. We also ask that you explain in detail what plans ICE and the GEO Group have adopted to (1) mitigate detainees' risk of contracting valley fever in transportation to or from the new facility or at the facility; (2) policies to exclude individuals with high risk factors from the facility; (3) medical policies and procedures to screen for, identify, and treat valley fever at the facility; (4) plans to educate staff and detainees regarding valley fever; and (5) any policies to delay or defer deportation of individuals who contract severe forms of valley fever at the facility and who are unlikely to receive proper care in their home countries.

Please reply at your earliest convenience by contacting Megan Sallomi at the American Civil Liberties Union of Northern California at 415-293-6350 or [msallomi@aclunc.org](mailto:msallomi@aclunc.org) to set up a meeting.

Sincerely,



Megan Sallomi

Legal Fellow

Julia Harumi Mass

Senior Staff Attorney

American Civil Liberties Union of Northern California

*Also on behalf of:*

American Civil Liberties Union of Southern California

Asian Americans Advancing Justice--Asian Law Caucus

American Immigration Lawyers Association of Northern California

Centro Legal de la Raza

Community Legal Services of East Palo Alto

Pangea Legal Services

Social Justice Collaborative

University of California-Davis, School of Law, Immigration Law Clinic

Van Der Hout, Brigagliano & Nightingale, LLP

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Cc: Amber D. Martin, Executive Vice President, The GEO Group, Inc.

Megan H. Mack, Officer for Civil Rights and Civil Liberties, Department of Homeland Security

Kevin Landy, Assistant Director, Office of Detention Policy and Planning, U.S. Immigration and Customs Enforcement

Andrew Lorenzen-Strait, Deputy Assistant Director, Custody Programs, Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement

Virginia Gennaro, City Attorney, City of Bakersfield

Tom Schroeter, City Attorney, City of McFarland

Congresswoman Barbara Lee, 13<sup>th</sup> District

Congresswoman Zoe Lofgren, 19<sup>th</sup> District