

March 20, 2020

By e-mail

The Hon. Daniel Carey  
Secretary of Health and Human Resources  
The Hon. Norman Oliver  
Commissioner, Virginia Department of Health  
The Hon. Faye Prichard  
Chair, Virginia Board of Health  
The Hon. Brian Moran  
Secretary of Public Safety and Homeland Security

**Re: Elevated risk of COVID-19 infections in ICE detention centers in Virginia**

Dear Secretary Carey, Commissioner Oliver, Chairwoman Prichard, and Secretary Moran:

I write you regarding an urgent concern regarding one of the most vulnerable populations during the current COVID-19 pandemic: detained immigrants jailed by U.S. Immigration and Customs Enforcement (ICE) at the Farmville and Caroline County facilities.

The roughly 1000 immigrants detained by ICE at Farmville and Caroline County are not being held on criminal charges, they are civil detainees, yet nonetheless they are held in jail-like conditions (indeed the Caroline County facility is a former jail). ICA-Farmville already has a very poor track record with infection control, and the facility was on quarantine for much of summer 2019 due to repeated outbreaks of mumps<sup>1</sup> which they were unable to prevent from spreading throughout the facility. Since then, little has been done to update their infection controls. The Legal Aid Justice Center has also heard many complaints over years about the poor quality of medical care and lack of resources at the facility.

Meanwhile, ICE is continuing its operations, even in this time of public health crisis: just last week they arrested about a dozen day laborers standing in front of a 7-Eleven in Culpeper County waiting for work. Although ICE announced on March 18 that it would scale back enforcement operations,<sup>2</sup> they also announced that they will continue to arrest and bring in new detainees who have criminal convictions, and have made no plans to release any immigrants currently detained (even

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<sup>1</sup> <https://www.farmvilleherald.com/2019/06/five-ica-staff-members-confirmed-with-mumps/>

<sup>2</sup> [https://www.washingtonpost.com/national/ice-halting-most-immigration-enforcement/2020/03/18/d0516228-696c-11ea-abef-020f086a3fab\\_story.html](https://www.washingtonpost.com/national/ice-halting-most-immigration-enforcement/2020/03/18/d0516228-696c-11ea-abef-020f086a3fab_story.html)

immigrants without criminal convictions).<sup>3</sup> And COVID-19 infections have already been found at ICE detention centers elsewhere in the United States.<sup>4</sup>

Significantly, neither detention center is owned or operated by the federal government. Farmville is owned and operated by a private corporation, ICA-Farmville, on contract with the Town of Farmville, which in turn has an Inter-Governmental Services Agreement with the federal government. The Caroline County facility is owned and operated by the Peumansend Creek Regional Jail Authority. Although both exclusively house federal civil immigration detainees, they are local (in the case of Farmville) or regional (in the case of Caroline County) jails under Virginia law.

Under Virginia law, the Virginia Department of Health (VDH) has the power to determine any person or entity's compliance with any VDH laws, regulations, orders, licenses, or certificates. In making that determination, the State Health Commissioner has the right to enter and inspect any property at any reasonable time in order to determine compliance, and can seek an inspection warrant if access to the property is not given voluntarily. Va. Code § 32.1-25. If the Commissioner finds that any person or entity is out of compliance, the Commissioner can seek a court order compelling them to comply. Va. Code § 32.1-27. The Attorney General represents the Commissioner in any enforcement proceedings. Va. Code § 32.1-28. Under VDH regulations, the Commissioner and the State Board of Health "reserve the right to use any legal means to control any disease which is a threat to the public health." 12 VAC 5-90-100.

In emergencies and disasters, Virginia law grants the Board and the Governor additional powers that may be used to protect public health. The Board may issue orders and special regulations to meet any emergency not provided for by general regulations, for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious and infectious diseases and other dangers to the public life and health. Va. Code § 32.1-13. The Governor has broad powers in emergencies and disasters as well, including those related to a communicable disease of public health threat. Va. Code § 44.146-17.

For the foregoing reasons, we request that the Commonwealth of Virginia, immediately and on an emergency basis, inspect the Farmville and Caroline County ICE detention centers to determine whether they have adequate infection controls in place, and adequate medical facilities and staffing to treat detainees should a large number become infected.

We request that the Commonwealth of Virginia review, *inter alia*:

- Whether ICE has transferred persons in or out of the Virginia facilities since the Governor's declaration of a State of Emergency;
- Widespread and unrestricted availability of preventative measures such as hand sanitizer and handwashing stations with hand soap;
- Availability of screening and testing for COVID-19 within the facility;
- Adequacy of medical facilities in general;
- Plans to ensure continued access to legal counsel if an infection breaks out in the facility;

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<sup>3</sup> <https://www.thedailybeast.com/ice-says-it-has-no-plan-to-free-migrants-in-jail-but-will-arrest-fewer-due-to-coronavirus-pandemic>

<sup>4</sup> <https://www.denverpost.com/2020/03/17/coronavirus-ice-detention-geo-group-aurora-colorado/>

- Education of detention center staff on infection prevention and identification;
- Response plans if someone is identified with COVID-19; and
- Measures to prevent social isolation (now that the detention centers have halted social visits, are detainees being given access to free telephone or video visitation?)

Please feel free to contact us directly if we can provide you with any further information regarding this matter

Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Angela", with a long horizontal flourish extending to the right.

Angela Ciolfi

cc: The Hon. Ralph Northam, Governor  
The Hon. Mark Herring, Attorney General