

How Morrow County Jail Became 100% COVID-Positive

Failure to Follow Ohio and Federal Detention Standards Led to Mass Illness and Death of Oscar Lopez Acosta

By Alexandra Magearu, PhD; Amy Crossin, Esq.; Lynn Tramonte

“I feel like we are being set up to die.” - detainee at Morrow County Jail

The Morrow County Sheriff’s Office failed to follow its own Infectious Disease Control Program (IDCP), required by the State of Ohio, as well as Immigration and Customs Enforcement (ICE) National Detention Standards (NDS), required under the federal contract. These mistakes led the Morrow County Correctional Facility to become the first county jail in Ohio, and the first ICE detention center in the United States, to allow every inmate to be infected with COVID-19.

The following analysis outlines numerous examples where the jail violated its own written IDCP and the federal NDS. These failures, both systemic and deliberate, led directly to the jail’s massive infection rate and the death of Oscar Lopez Acosta, a Dayton father detained at the Morrow County Jail for civil immigration reasons.

During the COVID-19 Pandemic, Morrow County Sheriff’s Office Repeatedly Violated Its Own Infectious Disease Control Program

Ohio Administrative Code 5120:1-8-09 (P) requires local jails to have a “written infectious disease control program which collaborates with the local health department and shall include, at minimum, an exposure control plan and standard isolation precautions for inmates and staff, which are updated annually.”

The Morrow County Correctional Facility’s Infectious Disease Control Program (IDCP), created in October 2015 and updated in November 2019, was written by Premier Health Services, Inc. and includes “procedures for identification, treatment, medical isolation, disease surveillance, immunizations, health related patient education.”

Such a program is just “words on paper,” though, until it is put to the test. The COVID-19 pandemic is exactly the sort of public health emergency that such programs are created to mitigate. Unfortunately, when COVID-19 struck, the Sheriff’s Office failed to follow its own program, leading to the chaos and mass illness at the jail. Following are some of the Sheriff’s Office’s most egregious violations of its Infectious Disease Control Plan.

Health care and jail staff did not follow infection control protocols to prevent the spread of COVID-19 among inmates and detainees.

Violation of IDCP 3.a: “health care and security staff will utilize established infection control protocols in an effort to control the spread of the disease.”

Evidence

1. “Kevin Farr was an inmate in Hinton's jail until last week. He has been transferred from Delaware County's jail to Morrow County on a probation violation, and says the difference in safety precautions was visible. ‘I loved it [referring to Delaware County Jail] — they made me feel way more safe than they did at Morrow County,’ he said. Asked what he saw at the Morrow County Jail, he said, “Staff wasn't wearing masks, inmates wasn't wearing masks. They didn't do that until the day they let me go.” (Glenn McEntyre for 10 TV WBNS)
2. “According to the lawsuit, the Morrow County Jail continued to transfer detainees to and from Franklin County Jail and the Butler County Jail after inmates tested positive at Franklin April 11 and at Butler April 13. Transferred detainees were not quarantined when they arrived at the Morrow jail, the lawsuit alleges. Several days later, Morrow County reported its first inmate tested positive at the jail on April 23.” (Eli Chung for *Mount Vernon News*)
3. “The announcement [50 detainees infected] occurred just eight days after the first positive case at Morrow and fewer than three weeks since the first positive case was announced at Butler County Jail (“Butler”). [Detainees are often transferred between the two facilities.] Now, the majority of detainees at Morrow are confirmed to have the virus, and their conditions range from asymptomatic to unable to move.” (*Prieto Refunjol et al., v. Adducci*, complaint filed by ACLU of Ohio)
4. “In a video Carpenter shared with *The Progressive*, her boyfriend, Tanner Depolo, said that they were still not wearing masks and weren’t given any extra soap, although they did have shampoo now. ‘Everybody’s together, two feet apart,’ he added. [...] Carpenter says there are still no soap dispensers, and not all guards are wearing masks or gloves. ‘[Inmates] are supposed to rotate, wear a mask, and then put it in a plastic bag for three days, and then after those three days, the virus will be dead [and they wear it again],’ she adds. ‘They’re not washing masks or sanitizing them.’” (Marcia Brown for *The Progressive*)
5. “Her boyfriend told her no inmate received any PPE until there were positive cases. This was confirmed by Morrow County Sheriff John Hinton himself. He recently told 10TV News: ‘When we had the first positive case in the jail we issued PPE to all the inmates,’ Hinton said. ‘they received N95 masks. Our staff – they had the masks – at that point they donned their masks.’ Prior to the positive case no one was wearing PPE inside the facility. Why not? ‘Being a rural county, I had just enough,’ Hinton answered. ‘It’s one of those things where you’re damned if you do, and damned if you don’t.’ Damned if you don’t, considering in 2016 the jail was cited by the Ohio Department Rehabilitation and Correction for not complying with 15 ‘essential’ or ‘important’ standards. One of those ‘essential’ standards out of compliance was an ‘infectious disease control program.’ At minimum, stated the report, the jail should have an ‘exposure control plan and standard

isolation precautions for inmates and staff, which are updated annually.” (Columbus Free Press)

6. “On April 23, the staff of the Morrow County Jail in Gilead, Ohio, told immigration detainees that a feverish man they’d been sharing a crowded dorm with had tested positive for COVID-19. The next day, Immigration and Customs Enforcement abruptly released one of the men who’d potentially been exposed without testing him: Óscar López Acosta, a 42-year-old Honduran man with diabetes who’d spent 18 months in government custody. On May 3, López tested positive for COVID-19 after an ambulance took him from his home to the Miami Valley Hospital in Dayton. The next day, ICE confirmed that 47 people in its custody at Morrow County had tested positive. The jail was only holding 51 immigration detainees at the time. It was exactly what experts had warned would happen if ICE didn’t use its power to release people: Nearly everyone had become infected after sharing a dorm in which social distancing was impossible. On Sunday, López died from complications from the coronavirus after being released from the hospital, the local coroner’s officer confirmed. Last week, Carlos Ernesto Escobar Mejía became the first person to die in ICE custody after contracting COVID-19. Ohio attorneys, immigrant advocates, and López’s widow, Lourdes Mejía Flores, believe López is the second to die after being infected in ICE custody. ‘This infection is on ICE’s hands,’ said Elizabeth Bonham, a staff attorney at the American Civil Liberties Union of Ohio.”

Medical isolation was not used to prevent the spread of COVID-19.

Violation of IDCP 1.b: “Inmates suspected of having specific communicable infectious disease will be reported to the responsible physician and will be placed into medical isolation until cleared.”

Evidence

1. “When the outbreak began, Morrow cohorted approximately 16 symptomatic and/or confirmed positive people in a group quarantine dorm. After a few days, the jail abandoned its cohorting. Today, all male detainees at the jail are in one of several small congregate rooms where many people have tested positive for, and are symptomatic with, COVID-19.” (Prieto Refunjol et al., v. Adducci, complaint filed by ACLU of Ohio)
2. “Both of the pods in which Plaintiffs are confined are enclosed environments without windows that are capable of opening. Plaintiffs are in constant close proximity to other detainees. Detainees continue to eat meals together communally, use one shared water fountain, and are, only as of recently, provided soap. Each pod they are confined in has rows of beds that are so close together, it is possible to touch multiple beds from one’s own bed. Each pod also has just one bathroom, each with toilets and one shower room. They also each have a phone, which every detainee in the pod shares.” (Prieto Refunjol et al., v. Adducci, complaint filed by ACLU of Ohio)

Inmates and detainees at Morrow County Jail have been denied adequate medical assistance, treatment, and supervision.

Violation of IDCP 2.a: “The health care provider who first identifies a reportable infectious reportable disease will communicate the appropriate information to the Health Services Administrator in a timely manner.”

Violation of IDCP 2.b.: “The Health Services Administrator, or designee, will assume responsibility for reporting the case to the appropriate health authority (i.e. Health Department). All reporting will be in written format and in accordance with all local, State and Federal laws and regulations.”

Violation of IDCP 3.h: “The Responsible Physician, Health Services Administrator and the Jail Administrator will monitor environmental/sanitation conditions and will immediately report any identified condition that may be a risk to the health and well being of the inmates and staff.”

Evidence

1. “Individuals with chronic medical conditions, such as diabetes, are provided the same diet as everyone else. [...] Individuals detained at MCCF are not provided with necessary medications.” (Freedom for Immigrants, Feb 7)
2. “Each new Plaintiff is in grave, imminent danger and is not able to be safely housed, receive adequate medical attention, or protect themselves by maintaining social distance while in the jail.” (*Prieto Refunjol et al., v. Adducci*, complaint filed by ACLU of Ohio)
3. “Detainees are only getting their temperature checked, at most, twice per day; once in the morning and once in the evening. To date, Plaintiffs have only been treated with Tylenol, which has only recently been made available. Plaintiffs with asthma are still being denied access to inhalers. Multiple Plaintiffs have described begging for help, either for themselves or for another detainee, due to shortness of breath or some other serious symptom. Multiple Plaintiffs have described that their desperate pleas for help fell on deaf ears; on more than one occasion, no staff member responded.” (*Prieto Refunjol et al., v. Adducci*, complaint filed by ACLU of Ohio)
4. “First, while detained at Morrow, the Additional Petitioners have their temperature taken no more than twice per day by a correctional officer using an expired thermometer that generates dubious results. [...] Second, while detained at Morrow, should the Additional Petitioners’ symptoms worsen, in the best case scenario they are at the mercy of a nurse to determine whether consultation with a doctor or a trip to the hospital is necessary. Or, as has happened at Morrow, they must convince a correctional officer that care is necessary, who must then decide whether to consult a nurse, who must then decide whether to escalate care. Both scenarios have the potential to involve

unreasonable delay that does not exist in the outside world. Through inadequate testing, inadequate observation, and inadequate isolation strategies, Morrow allowed its infection numbers to soar exponentially, and now every detainee in the large and small dormitories has been infected. This reckless, out-of-control spread of infection is constitutionally unacceptable.” (*Prieto Refunjol et al., v. Adducci*, order by U.S. District Judge Sarah D. Morrison)

5. “Morrow has shown that it is not up to this task. It has no medical staff onsite from 10:00 PM until 6:00 AM every weeknight and no medical staff onsite for fifty-six consecutive hours from Friday at 10:00 PM until Monday at 6:00 AM. While there is always a nurse on call, a nurse who is not onsite cannot provide direct medical monitoring. Instead, detainees must contact the guards who must contact the nurses who must then either travel to the facility or make an assessment without a firsthand examination. The time lag that is inherent in this medical relay race can jeopardize the safety of a detainee whose health rapidly declines during off-hours. The evidence also shows that even when they are onsite, the nurses have little if any direct contact with the infected detainees. It is thus difficult to understand how nurses can properly monitor detainees with whom they rarely interact.” (*Prieto Refunjol et al., v. Adducci*, order by U.S. District Judge Sarah D. Morrison)
6. “Mory Keita is a 33-year-old Guinean man who has asthma and has experienced coughing, wheezing, difficulty breathing and heightened anxiety while detained. Since he has been in detention, he has not been provided an inhaler to use. Sidi Nije is a 34-year-old Gambian man who was diagnosed with thyroid cancer in 2013. He has not been able to receive adequate treatment while in ICE detention. Adenis Prieto Refunjol is a 46-year-old Venezuelan man who suffers from bronchial asthma and hypertrophic hypertensive cardiopathy. He has been in detention for almost six months. When he was first detained, he did not receive his necessary medications for over a week.” (WLWT 5 News) (Laura Hancock for *Cleveland.com*)
7. “‘One of them is COVID-positive and I’m really worried about him,’ she said. ‘Last I talked with him, he had a 102 degree fever. And he said that the nurses were not giving them Tylenol because they’re trying to see how their body reacts to the virus.’ Tramonte says she’s also heard reports of inmates not receiving soap.” (Glenn McEntyre for *10 TV WBNS*)
8. “Advocates for Basic Legal Equality (ABLE) sued on behalf of another ICE detainee in Morrow, black Mauritanian national Saidu Sow. Detained for eighteen months, Sow tested positive for COVID-19 on April 24. Since getting his test results, Sow has not received medical attention. ‘He’s at his wits’ end,’ says Lynn Tramonte, director of Ohio Immigrant Alliance and Sow’s friend. ‘I think his fever got up to 104 and he was sitting in sweaty old smelly clothes, and they refused to give him Tylenol. It’s just super inhumane, and he does not deserve this.’” (Marcia Brown for *The Progressive*)

9. "There was recently an episode where a lawyer called 911 for an inmate experiencing chest pain and shortness of breath, and when 911 contacted the facility to confirm, were told they were not needed." (Dr. Laura Chambers-Kersh)

Detainees at Morrow County Jail endure poor hygiene conditions and have limited access to basic items such as soap, hand sanitizer, cleaning supplies, and disinfectant.

Violation of IDCP 3.b: "Health care and security staff will be attentive to frequent hand washing along with other standard precautions. Antimicrobial hand washing supplies are available in the health care clinic and in various areas throughout the facility."

Violation of IDCP 3.g: "Appropriate measures will be taken to ensure proper handling of contaminated linens and non disposable items."

Evidence

1. "Individuals detained at MCCF are not regularly provided with clean clothing, bed sheets, or towels, with individuals reporting spending up to 8 days in the same pair of clothes. [...] The bathrooms at MCCF are unclean, unsanitary, and unhygienic. [...] Individuals detained at MCCF are not provided with adequate soap or toothpaste." (Freedom for Immigrants)
2. "Before COVID-19, the Morrow County, Ohio, jail didn't have soap readily available to the inmates and ICE detainees held there. There wasn't hand sanitizer, Lysol spray, or other sanitary products. For hot water, inmates had to use the bathroom sink, where they also cleaned their own dishes. The mop used in the bathroom is used throughout the facility. Drinking water comes from the same water fountain for the roughly 75 inmates and ICE detainees held in the jail. (The facility has a total of 126 beds.) A close family member of an ICE detainee who is held in the jail told the *Prospect* about these conditions. Her detained relative told her that little has changed since the novel coronavirus outbreak. The jail has installed a 'little soap dispenser but watered the soap down to the point it's likely ineffective,' she said. The facility has stopped visits since the outbreak, but when visits were allowed, this family member said she saw a rat trap in the public restroom, and that the booths where inmates spoke with visitors were rarely if ever cleaned. Even now, the facility is set up so that inmates sit in large groups during mealtimes and everyone sleeps in the same room, rather than in cells." (Marcia Brown for *The American Prospect*)
3. "No one is provided adequate cleaning supplies. Detainees were recently forced to wear the same clothing, including undergarments, for over a week." (*Prieto Refunjol et al., v. Adducci*, complaint filed by ACLU of Ohio)
4. "In the isolation dorm, detainees were not provided new clothes for over a week, and staff, too frightened to enter, has stopped cleaning the pod, and detainees have not

been provided with sufficient materials to clean the pod themselves. According to multiple Plaintiffs, the bathroom has become 'disgusting.' As Plaintiff Mohamed Abdi notes, 'I feel like we are being set up to die.' (*Prieto Refunjol et al., v. Adducci*, complaint filed by ACLU of Ohio)

5. "There is significant evidence that Morrow is unsanitary and that the staff do not provide detainees with adequate supplies to perform basic hygiene. And it is likely that, under the current circumstances, these filthy and unhygienic conditions are excessive in relation to any legitimate governmental purpose and thus constitute "punishment" under the Fifth Amendment's Due Process Clause. Detainees are responsible for cleaning their living quarters, including the bathroom, but there are no apparent guidelines for doing so or any supervision by Morrow staff. They are given minimal cleaning supplies and no disinfectant; for those who are too ill to clean, their living spaces remain uncleaned. Soap is in short supply. There are broken toilets and showers. One dormitory has a single functional waterhead with insufficient waterflow for a proper shower. There are also multiple reports that clothing, towels, and sheets, are not washed more than once per week (sometimes less) and that even those clothes that are laundered return soiled." (*Prieto Refunjol et al., v. Adducci*, order by U.S. District Judge Sarah D. Morrison)
6. "'For weeks, inmates at the Morrow County jail have been warning family members and friends about filthy conditions, lack of soap and personal protection equipment, and frequent transfers of people into and out of the jail. They felt like sitting ducks for the disease,' said Lynn Tramonte, director of the Ohio Immigrant Alliance." (Catherine Candisky for *The Columbus Dispatch*)
7. "Carpenter tells *The Progressive* that Morrow County Jail has begun to experience staffing problems as well: The company that provides hot meals quit on April 24. Three days later, the facility's washing machine stopped working. 'They don't give enough food right now, even the security doesn't want to be around them,' says the sister of an ICE detainee who asked not to be identified for fear that it might hurt her brother's case." (Marcia Brown for *The Progressive*)
8. "'They could care less here, this place is so dirty, and since (the pandemic started) it's gotten worse,' says Malik, a Columbus resident and a native of Jordan facing deportation, who called the *Free Press* with his only free phone call for the week. 'When the ICE officers come, they don't even want to talk with us. I don't know what's going on with my case.'" (*Columbus Free Press*)

Before and During the Pandemic, Morrow County Sheriff's Office Failed to Follow ICE's National Detention Standards

The Morrow County Sheriff's Office has also repeatedly ignored the U.S. Immigrations and Customs Enforcement's National Detention Standards (NDS), which it is required to uphold according to its contract with ICE.

None of the inmates and detainees at Morrow County have been seen by a doctor in the facility, despite their COVID diagnoses. Nursing staff are not present at the jail overnight or on the weekends, and even when they are there, they often decline to provide health care, including Tylenol. Jail staff have repeatedly refused to call an ambulance for detainees in serious distress. What's more, there are no interpreters available to translate detainee medical conversations, calling into question how jail staff are even making such life-or-death decisions in the first place.

Freedom For Immigrants documented many of these deficiencies in a complaint submitted to the Department of Homeland Security (DHS) before the pandemic began. In a letter identifying fifteen egregious violations of the NDS, the organization wrote:

We are deeply concerned that many of the NDS violations listed above have in fact already been documented by ICE itself, most recently in the Office of Detention Oversight (ODO)'s 2015 Compliance Inspection of MCCF, during which they identified 55 deficiencies, including, 3 among others, the absence of a facility handbook, lack of information about the law library or grievance process, and the monitoring of legal calls. In light of the clear lack of any improvement or progress over the five years since the ICE ODO inspection took place, we demand that the Department of Homeland Security Office for Civil Rights & Civil Liberties, Immigration & Customs Enforcement, and the Morrow County Sheriff's Office take immediate action to remedy the violations described above.

Despite recent scrutiny over the jail's medical mismanagement, violations of the NDS and basic human rights continue to this day. There is still no doctor caring for sick people inside the jail, and nursing staff are only there part-time even during a global pandemic. Detainees no longer have access to masks, but staff do. Healthy meals are still not being offered; one recent meal consisted of a pack of Oreos, chips, and a rotten apple. Guards have also denied detainees access to more than one cup of ice water.

In addition to having to clean their own spaces, sick inmates are now being forced to clean areas formerly handled by jail staff, including windows, chairs, desks, and floors. Many men are suffering from vomiting and headaches due to the poor nutrition and illness. Men with urgent symptoms, such as urinating blood, are still not being treated by a doctor or taken to the hospital.

Laura Chambers-Kersh, MD, FAAFP, said: "The conditions in the Morrow County Correctional Facility are inhumane and unequivocally, recklessly endanger the health and lives of detainees during the COVID-19 pandemic. The National Detention Standards clearly guarantee detainees medical care, including timely responses to medical complaints, as well as staff or professional language services. The level to which this is NOT happening is ludicrous.

“Morrow County is not complying with multiple other standards that have serious health implications: clean clothing/linens, personal hygiene products, available functional toilets/wash basins/showers, hot meals with proper nutritional content. As a physician, I am shocked and appalled at the way detainees have been treated, and the utter disregard for their safety and lives. Because the Morrow County Correctional Facility has been unable to comply with these standards, and unable to provide for detainees even the most basic measures to maintain their health and well-being, the only responsible course of action is to terminate their agreement with ICE.”

Following are a list of current NDS violations, referencing the latest conditions at the Morrow County Correctional Facility.

NDS health care requirements are consistently ignored. The Jail repeatedly violated its own Infectious Disease Control Program (IDCP).

Violation of NDS 4.3 Medical Care II.D.2: “The facility will have written plans that address the management of infectious and communicable diseases, including, but not limited to, testing, isolation, prevention, and education. This also includes reporting and collaboration with local or state health departments in accordance with state and local laws and recommendations.”

Violation of NDS 4.3 Medical Care II.A.2 to II.A.7:“ 2. Medically necessary and appropriate medical, dental and mental health care and pharmaceutical services at no cost to the detainee; 3. Comprehensive, routine and preventive health care, as medically indicated; 4. Emergency care; 5. Specialty health care; 6. Timely responses to medical complaints; 7. Hospitalization as needed within the local community”

Violation of NDS 4.3 Medical Care II.I: “Each facility shall implement procedures for identifying and handling an emergency grievance. An emergency grievance involves an immediate threat to a detainee’s health, safety, or welfare. When a staff member determines that a detainee is raising an issue requiring urgent attention, the facility’s emergency grievance procedures apply. The facility will have a mechanism that allows detainees the opportunity to privately request health care services (including mental health and dental services) provided by a physician or other health care practitioner in a clinical setting. If necessary, detainees shall be provided assistance in filling out the request, especially detainees with a disability, or who are illiterate or LEP. The facility shall have procedures to ensure that all request slips are received and triaged by the medical staff within 24 hours of receipt of the request. Request slips shall be provided in English and Spanish, at a minimum. A health care practitioner will review the request and determine when the detainee will be seen based on the acuity of the problem and within a reasonable period of time.”

Violation of NDS 4.3 Medical Care II.J: “The facility will have a written plan for the delivery of 24-hour emergency medical and mental health care when no medical personnel are on duty at the facility, or when immediate outside medical attention is otherwise required.”

Violation of NDS 4.3 Grievance System II.B: “Each facility shall implement procedures for identifying and handling an emergency grievance. An emergency grievance involves an immediate threat to a detainee’s health, safety, or welfare. When a staff member determines that a detainee is raising an issue requiring urgent attention, the facility’s emergency grievance procedures apply.”

Evidence

1. “Kevin Farr was an inmate in Hinton's jail until last week. He has been transferred from Delaware County's jail to Morrow County on a probation violation, and says the difference in safety precautions was visible. ‘I loved it [referring to Delaware County Jail] — they made me feel way more safe than they did at Morrow County,’ he said. Asked what he saw at the Morrow County Jail, he said, “Staff wasn't wearing masks, inmates wasn't wearing masks. They didn't do that until the day they let me go.” (Glenn McEntyre for 10 TV WBNS)
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3. “The announcement [50 detainees infected] occurred just eight days after the first positive case at Morrow and fewer than three weeks since the first positive case was announced at Butler County Jail (“Butler”). [Detainees are often transferred between the two facilities.] Now, the majority of detainees at Morrow are confirmed to have the virus, and their conditions range from asymptomatic to unable to move.” (*Prieto Refunjol et al., v. Adducci*, complaint filed by ACLU of Ohio)
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those things where you're damned if you do, and damned if you don't.' Damned if you don't, considering in 2016 the jail was cited by the Ohio Department Rehabilitation and Correction for not complying with 15 'essential' or 'important' standards. One of those 'essential' standards out of compliance was an 'infectious disease control program.' At minimum, stated the report, the jail should have an 'exposure control plan and standard isolation precautions for inmates and staff, which are updated annually.'" (*Columbus Free Press*)

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being denied access to inhalers. Multiple Plaintiffs have described begging for help, either for themselves or for another detainee, due to shortness of breath or some other serious symptom. Multiple Plaintiffs have described that their desperate pleas for help fell on deaf ears; on more than one occasion, no staff member responded.” (*Prieto Refunjol et al., v. Adducci*, complaint filed by ACLU of Ohio)

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14. “‘One of them is COVID-positive and I’m really worried about him,’ she said. ‘Last I talked with him, he had a 102 degree fever. And he said that the nurses were not giving them Tylenol because they’re trying to see how their body reacts to the virus.’ Tramonte says she’s also heard reports of inmates not receiving soap.” (Glenn McEntyre for *10 TV WBNS*)
15. “Advocates for Basic Legal Equality (ABLE) sued on behalf of another ICE detainee in Morrow, black Mauritanian national Saidu Sow. Detained for eighteen months, Sow tested positive for COVID-19 on April 24. Since getting his test results, Sow has not received medical attention. ‘He’s at his wits’ end,’ says Lynn Tramonte, director of Ohio Immigrant Alliance and Sow’s friend. ‘I think his fever got up to 104 and he was sitting in sweaty old smelly clothes, and they refused to give him Tylenol. It’s just super inhumane, and he does not deserve this.’” (Marcia Brown for *The Progressive*)
16. “There was recently an episode where a lawyer called 911 for an inmate experiencing chest pain and shortness of breath, and when 911 contacted the facility to confirm, were told they were not needed.” (Dr. Laura Chambers-Kersh)

Detainees at Morrow County Jail with limited English proficiency are not provided with interpretation and translation services, including when seeking medical care.

Violation of NDS Foreword: “Pursuant to Executive Order 13166, ‘Improving Access to Services for Persons with Limited English Proficiency’ (Aug. 2000), and Title VI of the Civil Rights Act of 1964, facilities are required to identify detainees with limited English proficiency (LEP) (i.e., detainees who do not speak English as their primary language and who have limited ability to read, speak, write, or understand English) and provide LEP detainees with meaningful access to their programs and activities through language interpretation and translation services.”

Violation of NDS 4.3 Medical Care II.A.8: “Staff or professional language services necessary to allow for meaningful access for detainees with limited English proficiency (LEP), and effective communication for detainees with disabilities, during any medical or mental health appointment, sick call, treatment, or consultation.”

Violation of NDS 4.3 Medical Care II.G: “Facilities shall provide appropriate interpretation and language services for LEP detainees related to medical and mental health care. When appropriate staff interpretation is not available, facilities will make use of professional interpretation services. Detainees shall not be used for interpretation services during any medical or mental health service. Interpretation and translation services by other detainees shall only be used in an emergency medical situation.”

Evidence

1. “There is an additional problem with these symptom checks in that there is an apparent language barrier. Several of Additional Petitioners do not speak English, and

Respondents have made no apparent attempt to try to understand the symptoms of detainees who cannot effectively verbalize how they are feeling in their non-native tongue. It is unacceptable that, in gathering information that might indicate an individual's health is in jeopardy, correctional officers may not even understand what a detainee is saying." (*Prieto Refunjol et al., v. Adducci*, order by U.S. District Judge Sarah D. Morrison)

2. "ICE also does not have interpretation available for medical or other conversations. At least one detainee, Eduardo, was transferred to the sick POD despite not showing any symptoms of COVID-19, due to a miscommunication because of the language barrier. He ended up contracting COVID-19." (*Prieto Refunjol et al., v. Adducci*, order by U.S. District Judge Sarah D. Morrison)

Conditions at Morrow County Jail do not comport with the NDS for hygiene, cleanliness, and nutrition.

Violation of NDS 1.1 Environmental Health and Safety I.2: "Facility cleanliness and sanitation shall be maintained. All surfaces, fixtures, and equipment shall be kept clean and in good repair. Suitable and sufficient cleaning equipment and supplies shall be available throughout the facility."

Violation of NDS 3.1 Disciplinary System A.3: "Staff may not impose or allow imposition of the following sanctions: corporal punishment; deviations from food services or availability of water; deprivation of clothing, bedding, or items of personal hygiene; deprivation of correspondence privileges; deprivation of legal visitation, legal mail, access to the law library, and the removal of legal papers; or deprivation of physical exercise unless such activity creates an unsafe condition."

Violation of 4.1 NSD Food Service II.C.1: "Ordinarily detainees shall be served three meals every day, at least two of which shall be hot meals; however, the facility administrator may approve variations in the food service schedule during religious and civic holidays, provided that basic nutritional goals are met. The dining room schedule must allow no more than 14 hours between the evening meal and breakfast. Clean, potable drinking water must be available."

Violation of NDS 4.4. Personal Hygiene II.E: "Detainees shall be provided with clean clothing, linens, and towels on a regular basis to ensure proper hygiene. Socks and undergarments will be exchanged daily, outer garments at least twice weekly and sheets, towels, and pillowcases at least weekly."

Violation of NDS 4.4. Personal Hygiene II.F: "Each detainee shall receive, at a minimum, the following items: 1. One bar of bath soap, or equivalent; 2. One comb or equivalent; 3. One tube of toothpaste; 4. One toothbrush; 5. One bottle of shampoo, or equivalent; and 6. One container of skin lotion. [...] The facility shall replenish personal hygiene items at no cost to the detainee on an as-needed basis, in accordance with written facility procedures."

Evidence

1. "Individuals detained at MCCF are not regularly provided with clean clothing, bed sheets, or towels, with individuals reporting spending up to 8 days in the same pair of clothes. [...] The bathrooms at MCCF are unclean, unsanitary, and unhygienic. [...] Individuals detained at MCCF are not provided with adequate soap or toothpaste." (Freedom for Immigrants)
2. "Before COVID-19, the Morrow County, Ohio, jail didn't have soap readily available to the inmates and ICE detainees held there. There wasn't hand sanitizer, Lysol spray, or other sanitary products. For hot water, inmates had to use the bathroom sink, where they also cleaned their own dishes. The mop used in the bathroom is used throughout the facility. Drinking water comes from the same water fountain for the roughly 75 inmates and ICE detainees held in the jail. (The facility has a total of 126 beds.) A close family member of an ICE detainee who is held in the jail told the *Prospect* about these conditions. Her detained relative told her that little has changed since the novel coronavirus outbreak. The jail has installed a 'little soap dispenser but watered the soap down to the point it's likely ineffective,' she said. The facility has stopped visits since the outbreak, but when visits were allowed, this family member said she saw a rat trap in the public restroom, and that the booths where inmates spoke with visitors were rarely if ever cleaned. Even now, the facility is set up so that inmates sit in large groups during mealtimes and everyone sleeps in the same room, rather than in cells." (Marcia Brown for *The American Prospect*)
3. "No one is provided adequate cleaning supplies. Detainees were recently forced to wear the same clothing, including undergarments, for over a week." (*Prieto Refunjol et al., v. Adducci*, complaint filed by ACLU of Ohio)
4. "In the isolation dorm, detainees were not provided new clothes for over a week, and staff, too frightened to enter, has stopped cleaning the pod, and detainees have not been provided with sufficient materials to clean the pod themselves. According to multiple Plaintiffs, the bathroom has become 'disgusting.' As Plaintiff Mohamed Abdi notes, 'I feel like we are being set up to die.' (*Prieto Refunjol et al., v. Adducci*, complaint filed by ACLU of Ohio)
5. "There is significant evidence that Morrow is unsanitary and that the staff do not provide detainees with adequate supplies to perform basic hygiene. And it is likely that, under the current circumstances, these filthy and unhygienic conditions are excessive in relation to any legitimate governmental purpose and thus constitute "punishment" under the Fifth Amendment's Due Process Clause. Detainees are responsible for cleaning their living quarters, including the bathroom, but there are no apparent guidelines for doing so or any supervision by Morrow staff. They are given minimal cleaning supplies and no disinfectant; for those who are too ill to clean, their living spaces remain uncleaned. Soap is in short supply. There are broken toilets and showers.

One dormitory has a single functional waterhead with insufficient waterflow for a proper shower. There are also multiple reports that clothing, towels, and sheets, are not washed more than once per week (sometimes less) and that even those clothes that are laundered return soiled.” (*Prieto Refunjol et al., v. Adducci*, order by U.S. District Judge Sarah D. Morrison)

6. ““For weeks, inmates at the Morrow County jail have been warning family members and friends about filthy conditions, lack of soap and personal protection equipment, and frequent transfers of people into and out of the jail. They felt like sitting ducks for the disease,’ said Lynn Tramonte, director of the Ohio Immigrant Alliance.” (Catherine Candisky for *The Columbus Dispatch*)
7. “Carpenter tells *The Progressive* that Morrow County Jail has begun to experience staffing problems as well: The company that provides hot meals quit on April 24. Three days later, the facility’s washing machine stopped working. ‘They don’t give enough food right now, even the security doesn’t want to be around them,’ says the sister of an ICE detainee who asked not to be identified for fear that it might hurt her brother’s case.” (Marcia Brown for *The Progressive*)
8. ““They could care less here, this place is so dirty, and since (the pandemic started) it’s gotten worse,’ says Malik, a Columbus resident and a native of Jordan facing deportation, who called the *Free Press* with his only free phone call for the week. ‘When the ICE officers come, they don’t even want to talk with us. I don’t know what’s going on with my case.’” (*Columbus Free Press*)

When any government chooses to incarcerate a human being and deprive him of his liberty, the government takes on a responsibility of care. Basic rights, such as the right to life, are protected for all individuals in federal, state, and local custody, regardless of their citizenship.

The requirements in the Ohio Administrative Code and ICE National Detention Standards obligate incarcerating institutions to meet these basic needs. When a prison, jail, or detention center fails to comply, and puts individuals’ health and lives at risk, a responsible party must step in and protect life.

The Morrow County Correctional Facility is too dangerous to human life to remain in operation, and far too broken to be fixed. It needs to be shut down.

Abbreviations

IDCP: Morrow County Sheriff Office. “Police and Procedures Manual, Correction Division: Infection Disease Control Program.” November 14, 2019 (Last Review):

<https://drive.google.com/file/d/1KDbMcWEQocJJoVcUHuw2ST1Z51tKFmny/view?usp=sharing>.

ICE: Immigration and Customs Enforcement

MCCF: Morrow County Correctional Facility (a.k.a. Morrow County Jail)

NDS: U.S. Immigration and Customs Enforcement, “National Detention Standards for Non-Dedicated Facilities.” (Revised 2019):

<https://www.ice.gov/doclib/detention-standards/2019/nds2019.pdf>.

Sources

“ACLU of Ohio sues ICE seeking release of immigrants vulnerable to COVID-19 from Butler County Jails.” *WLWT*. April 27, 2020:

<https://www.wlwt.com/article/aclu-of-ohio-sues-ice-seeking-release-of-immigrants-vulnerable-to-covid-19-from-butler-county-jails/32290128>

Brown, Marcia. “As COVID-19 Spreads, a County Jail in Ohio is Ill-Prepared.” *The American Prospect*. April 3, 2020:

<https://prospect.org/justice/as-covid-19-spreads-a-county-jail-in-ohio-is-ill-prepared/>

Brown, Marcia. “A County Jail Battles COVID-19 and the Opioid Crisis—At the Same Time.” *The Progressive*. May 1, 2020:

https://progressive.org/dispatches/county-jail-battles-covid19-and-opioid-crisis-brown-200501/?fbclid=IwAR2skW1DEXeiXpNfdnBtv_pr5GCEePX3eXykY3kHXpgLlLo8R5zhnk2He050

Candisky, Catherine. “Second Ohio prison worker dies of complications from coronavirus.” *The Columbus Dispatch*. April 27, 2020:

<https://www.dispatch.com/news/20200427/second-ohio-prisons-worker-dies-of-complications-from-coronavirus>

Chambers-Kersh, M.D., Laura. *Statement to Morrow County Health District*. Presented at the Board’s monthly meeting on May 18, 2020.

<https://ohioimmigrant.org/2020/05/19/dr-chambers-kersh-statement-before-morrow-county-health-district/>

Chung, Eli. “Morrow County named in ICE inmate lawsuit.” *Mount Vernon News*. April 30, 2020:

<https://mountvernonnews.com/local-news/2020/04/30/morrow-county-named-in-ice-inmate-lawsuit/>

Freedom for Immigrants, *Formal Complaint* to DHS Office of Civil Rights; ICE Detroit Field Office Director Adducci; and the Morrow County Sheriff and Jail Administrator. Filed February 7, 2020:

<https://ohioimmigrant.org/wp-content/uploads/sites/12/2020/05/NDS-2019-Violations-at-Morrow-County-Jail.pdf>

Hancock, Laura, “ACLU sues ICE to release detainees from Morrow, Butler county jails due to coronavirus” *Cleveland.com*. April 25, 2020:

<https://www.cleveland.com/court-justice/2020/04/aclu-sues-ice-to-release-detainees-from-morrow-butler-county-jails-due-to-coronavirus.html>

Lanard, Noah. "A Honduran Man Has Died of COVID-19 After Leaving an ICE Jail Plagued by the Virus." *Mother Jones*. May 14, 2020:

<https://www.motherjones.com/politics/2020/05/a-honduran-man-has-died-of-covid-19-after-leaving-an-ice-jail-plagued-by-the-virus/>

McEntyre, Glenn. "Sheriff answers concerns over COVID-19 outbreak at Morrow County Jail." *10 TV WBNS*:

<https://www.10tv.com/article/sheriff-answers-concerns-over-covid-19-outbreak-morrow-county-jail-2020-may>

Morrow County Sheriff Office. "Police and Procedures Manual, Correction Division: Infection Disease Control Program." November 14, 2019 (Last Review):

<https://drive.google.com/file/d/1KDbMcWEQocJJoVcUHuw2ST1Z51tKFmny/view?usp=sharing>.

Order from U.S. District Judge Sarah D. Morrison in *Prieto Refunjol et al., v. Adducci*, No. 2:20-cv-2099, slip op. (S.D. OH, May 14, 2020).

<https://www.courthousenews.com/wp-content/uploads/2020/05/ICE-release-order.pdf>

Prieto Refunjol et al., v. Adducci, No. 2:20-cv-2099 (S.D. OH, May 14, 2020), First Amended Complaint:

<https://www.acluohio.org/wp-content/uploads/2020/05/2020-05-05-014-Amended-Complaint-and-Petition.pdf>

"Rural Ohio prisons...Please save our Familia!" *Columbus Free Press*. May 7, 2020:

<https://columbusfreepress.com/article/rural-ohio-prisons%E2%80%A6please-save-our-familia>

U.S. Immigration and Customs Enforcement, "National Detention Standards for Non-Dedicated Facilities" (Revised 2019): <https://www.ice.gov/doclib/detention-standards/2019/nds2019.pdf>