

Observations On Jail Conditions in Judge Sarah D. Morrison's Order in *Prieto v. Adducci* (Case No. 2:20-cv-2099)

Link to order:

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

- Detainees have serious medical problems, including asthma, diabetes, cancer recovery, traumatic brain injury, and even gunshot wounds but received no treatment. ICE says the detainees did not disclose these problems during intake, but there is no evidence that they were asked about their medical histories in any language, much less their native languages. Detainees were not given inhalers, insulin, blood sugar monitoring, brain scans, cancer screenings, and other health care necessities while in Morrow County Jail.
- ICE's response to detainee allegations was made by Christopher LaBier, who supervises ICE detention in southern Ohio. Judge Morrison pointed out that "There is no evidence that Mr. LaBier has visited Butler or Morrow since the beginning of this pandemic or that he has any first hand knowledge of the conditions of either facility" (page 18).
- At Morrow, dormitories are one open room. Windows do not open, so no fresh air. Beds are spaced two feet apart. LaBier claimed that detainees sleep surrounded by empty beds, but detainees dispute that. [Ohio Immigrant Alliance points out that prior Ohio Department of Rehabilitation and Correction jail [inspections confirm](#) that the facility violated spacing regulations, even before the pandemic made physical spacing a life-or-death matter. This information was not in the Judge's order but is relevant here.]
- There is no doctor in the facility. Nurses are at Morrow from 6am-10pm Monday through Friday, but no medical personnel are there on weekends.
- ICE claimed that no infected detainees had exhibited severe symptoms or required hospitalization. On page 22, the Judge points out "we know that this information is no longer true. At least one detainee was transported to the hospital, and there is a dispute about whether other detainees have exhibited severe enough symptoms to be transported to the hospital."
- Detainees' vital signs are checked twice a day, not three times as per Ohio Department of Health guidelines. What's more, they are usually taken by corrections officers, not trained medical personnel, who do not seem to report the information to anyone. The thermometers they are using expired in 2016, calling into question the accuracy of their readings. Judge Morrison points out that in sampling of temperature readings ICE gave her, several were below normal including one below 95 degrees, "the clinical benchmark for hypothermia [that]

requires immediate medical attention” (page 23). None was given. None showed feverish temperatures, a situation that is factually impossible in a jail where every single inmate has COVID-19.

- 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 (page 24).
- “There is evidence that even when detainees report serious symptoms, or appear to be in distress, no action is taken” (page 24). ICE claims that it provides Tylenol, but several detainees dispute this.
- ICE claims that Morrow cleans the dormitories three times a day using a viral disinfectant. Judge Morrison states that this is incorrect. Detainees are required to clean their spaces and they are only given cleaning supplies but no disinfectant. Those who are too sick to clean do not have their spaces tended to, leaving the virus on surfaces that others may touch. “Shared aspects of the facility, such as the telephones, are not cleaned in-between uses” (page 25). ICE offers no evidence to the contrary.
- “Detainees’ ability to maintain personal hygiene is also questionable. The bathrooms in both dormitories are filthy. Only one showerhead in the small dormitory is functional and its water pressure is barely a trickle. There is a broken toilet leaking in the large dormitory” (page 25).
- ICE claims that clothing, towels, and bedding are laundered twice a week, but detainees report that they have been made to wear the same clothes for over a week, have no clean towels for two weeks, et cetera (page 25). They are also given an inadequate amount of soap. Only recently given masks, the cloth ones are rarely laundered and the disposable ones break often. And there is no evidence that detainees or staff wear them consistently. [Ohio Immigrant Alliance adds that Morrow County Sheriff Hinton disclosed to [10 TV](#) that he had saved his PPE and only issued masks to staff and inmates after the virus had already spread in the jail.]
- Judge Morrison noted that during the hearing, “a Morrow staff member appeared onscreen wearing a mask but no face shield or gown. The staff member also had his fingers inside his mask as he entered onscreen, and he appeared to be either putting on his mask or adjusting it,” calling into question whether staff actually use the masks they are given (page 27).
- According to Dr. Walson, expert witness, a facility like Morrow without onsite medical staff 24 hours/day cannot adequately evaluate and assess those infected with COVID-19 (page 27). Dr. Walson also points out that the “infection

history” of the jail shows it has been unable to control the virus, and the likelihood of continued transmission “remains exceptionally high.” Judge Morrison writes: “The only effective way to protect the health of the individuals inside the walls of Morrow as well as the surrounding community is to depopulate the facility” (page 28).

- Regarding ICE’s contention that the detainees were getting “the exact medical care recommended’ by Ohio Department of Health, Judge Morrison wrote: “Respondents’ crabbed conception of ‘medical care’ ignores the need to monitor the symptoms of an individual infected with COVID-19. Even assuming the Additional Petitioners would not receive any additional medicinal treatment upon their release from detention, the undisputed evidence in the record establishes both that Morrow is inadequately monitoring the Additional Petitioners’ symptoms and that the Additional Petitioners would have the increased autonomy to self-monitor upon release” (page 41). Later, she wrote: “To say that the Additional Petitioners are receiving adequate medical attention is a pollyannaish perspective based on Mr. LaBier’s cherrypicked statements that are unsupported by the record” (page 42).
- “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” (page 45).
- “The Court finds most of the Additional Petitioners’ consistent reports to be credible and credits them over Mr. LaBier’s unfounded characterizations. As best the Court can tell, Mr. LaBier has attested to the facts that he assumes or hopes to be true” (page 46).
- “It is likely that the Additional Petitioners can prove that Morrow’s failure to monitor detainees’ symptoms constitutes deliberate indifference.... Morrow has shown that it’s not up to this task” (page 46). Judge Morrison then described how the lack of medical staff overnight and on weekends leads to guards making medical decisions and a time lag in receiving care. “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” (page 46).
- “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” (page 46).

- “In addition to the paucity of evidence of nursing care, there is even less evidence that any Morrow detainees have been attended to by a physician” (page 46).
- In describing the situation of Bernardo Diaz Rodriguez, Judge Morrison explained that he had begged to see a doctor for days as his condition worsened, and the other detainees were also asking for him to be able to see a doctor. “As he struggled to breathe, the response by the staff at Morrow was to send a corrections officer in to take his temperature and to bring him a blanket.” He was finally taken away, possibly to a hospital. The Judge declared that he was treated with “paradigmatic deliberate indifference” (page 49-50).
- She said that ICE “stood idly by while Morrow staff fecklessly monitor the condition of Additional Petitioners. They have not acted based on medical judgment. In fact, those who have acted are mostly correctional officers, who are incapable of acting with any medical judgment at all. Putting Additional Petitioners’ health and safety almost exclusively in the hands of nonmedical professionals is reckless and irresponsible under the circumstances of the current pandemic and Morrow’s large number of infected detainees” (page 52).
- “Morrow’s inability to control the spread of infection, its demonstrated failures at monitoring detainees’ symptoms, and its poor conditions create an unconstitutionally acceptable environment” (page 54).
- “The large cluster of positive cases has the potential to overwhelm local hospitals should multiple detainees’ conditions deteriorate and it increases the risk of infecting Morrow staff who cycle in and out of the jail and the community each day” (page 56).