



Katherine Culliton-González, Officer
 CRCLCompliance@hq.dhs.gov
 Office for Civil Rights and Civil Liberties
 Department of Homeland Security
 Compliance Branch, Mail Stop # 0190
 2707 Martin Luther King, Jr. Ave., SE
 Washington, DC 20528-0190

Joseph V. Cuffari, Inspector General
 DHS-OIG.OfficePublicAffairs@oig.dhs.gov
 Office of the Inspector General
 Department of Homeland Security
 245 Murray Lane SW
 Washington, DC 20528-0305

Gregory Archambeault, Director
 Gregory.J.Archambeault@ice.dhs.gov
 San Diego Field Office
 Enforcement and Removal Operations
 Immigration and Customs Enforcement
 880 Front Street #2242, San Diego, CA 92101

Rolando Treviño, Facility Administrator
 Rolando.Trevino@mtctrains.com
 Edward Ruiz, Deputy Warden
 Edward.Ruiz@mtctrains.com
 Imperial Regional Detention Center
 1572 Gateway Rd, Calexico, CA 92231

CC:
 Nick Wells, City Clerk
 NWells@holtville.ca.gov
 City of Holtville
 121 W. 5th Street
 Holtville, CA 92250

Blanca Acosta, Clerk of the Board
 BlancaAcosta@co.imperial.ca.us
 Imperial County Board of Supervisors
 940 W. Main Street, Suite 209
 El Centro, CA 92243-2839

Catherina Nou, Director
 Catherina.Nou@doj.ca.gov
 Office of Community Awareness, Response and
 Engagement
 Attorney General's Office
 California Department of Justice
 P.O. Box 944255
 Sacramento, CA 94244-2550

Kathy Derham, Regional Manager
 DOSHSD@dir.ca.gov
 Division of Occupational Safety and Health
 Department of Industrial Relations
 San Diego District Office
 7575 Metropolitan Drive, Suite 207
 San Diego, CA 9210

January 25, 2022

RE: Noxious Air, Contaminated Water, Toxic Dust, and Mold Causing Serious Health Complications at Imperial Regional Detention Center

Dear Officer Culliton-González, Inspector General Cuffari, Field Office Director Archambeault, Facility Administrator Treviño, and Deputy Warden Ruiz:

Freedom for Immigrants, Earthjustice, Innovation Law Lab, Desert Support for Asylum Seekers, California Collaborative for Immigrant Justice, and the Interfaith Movement for Human Integrity submit this complaint on behalf of Ramon Dominguez Gonzalez (A# 043-439-804), Juan Carlos Sanchez Rivera (A# 073-830-803), Donald Varela Fernandez (A# 093-065-471), Estelito Adiova Carpio (A# 047-899-129), and five other individuals who wish to remain anonymous due to fear of retaliation. These nine individuals currently are or were detained by U.S. Immigration and Customs Enforcement (“ICE”) at Imperial Regional Detention Facility (“Imperial” or “IRDF”) in Calexico, California and have reported violations of their civil and human rights, including: toxic and unfiltered air, contaminated water, and exposure to dust and mold by ICE and Management & Training Corporation (“MTC”), the latter of which owns and operates the Imperial facility. We urge the Department of Homeland Security (“DHS”) Office for Civil Rights and Civil Liberties (“CRCL”) and the Office of the Inspector General (“OIG”) to immediately:

1. Investigate the contaminated water, mold, dust, and toxic air at Imperial; and include in those investigations recommendations to eliminate, or at least mitigate, any harmful or hazardous conditions at Imperial;
2. Advocate for the termination of the ICE detention contract at Imperial and the reallocation of such funds to healthy community opportunities;
3. Recommend the immediate release of all individuals detained at Imperial to their communities and loved ones.

Testimonies

This complaint includes testimonies from eight individuals currently detained and one individual who was previously detained at Imperial Regional Detention Facility. Five individuals wish to remain anonymous due to justified fears of retaliation and targeted abuse. Should an investigation be opened, these individuals may be willing to report their allegations directly to oversight bodies.

These testimonies demonstrate a clear and utter disregard for the safety, well-being, and respect of those detained by ICE and MTC at Imperial. The environmental neglect, unsafe living conditions and hazardous air are direct violations of ICE’s own detention standards, Occupational Safety and Health Administration (“OSHA”) laws and regulations, the Centers for Disease Control and Prevention guidance, and the U.S. Constitution.

These individuals shared their testimonies with advocates from the Freedom for Immigrants National Immigration Detention Hotline, Innovation Law Lab, Desert Support for Asylum Seekers, and California Collaborative for Immigrant Justice. The undersigned organizations are extremely concerned about the health and well-being of people detained at Imperial. These testimonies demonstrate a pattern of:

- Persistently toxic and malodorous air;
- Excessive toxic dust and dirt inside the facility;
- Contaminated and undrinkable water;
- Exposure to hazardous mold; and

- Severe health issues as a result of the above.

I. Previous Reporting of Injurious Conditions

The injurious conditions both inside Imperial as well as those of the surrounding landscape have been well-documented for years.

Torturous conditions inside Imperial

- In December 2020, the DHS OIG released a 34-page report titled *ICE Needs to Address Prolonged Administrative Segregation and Other Violations at the Imperial Regional Detention Facility*. This report identified violations of ICE detention standards including “poor conditions” that “endangered the health and safety of detainees.” The OIG determined that people detained “were held in administrative segregation for prolonged periods of 22 to 23 hours a day, including two detainees who had been held in isolation for more than 300 days” and “medical checks were insufficient to ensure proper detainee care.”¹
- In January 2021, the California Department of Justice (“DOJ”) issued a report on immigration detention in California that criticized MTC for imposing “extremely restrictive” conditions on people in administrative segregation and lacking adequate mental health services at Imperial.
 - While writing this report, the DOJ team was able to obtain and review a grievance log containing a total of 386 grievances filed at Imperial dated from January 2018 to April 2019. Notably, the largest category of grievance was “Other”, which DOJ defined as “issues related to and referred to ICE; facility repair requests (e.g., toilets, telephones); laundry requests; and hygiene, among others.” The “Other” category consisted of 139 grievances (which can be compared to the second most common category, “Staff Misconduct,” which was made up of 89 grievances).
 - The DOJ also found that their “review of the grievance log uncovered that when detainees file grievances, the outcomes are rarely in their favor,” with 78.76% of filed grievances at Imperial having an unfavorable outcome.²
 - The DOJ also reported that nurses at Imperial over-relied on protocols when detained individuals presented “particularly severe or repeated symptoms, without consultation with clinicians, thereby potentially overlooking and failing to treat possibly life threatening conditions.”³
 - Notably, during the DOJ’s scheduled visit to Imperial, a group of Imperial detention staff anonymously submitted a letter to DOJ raising their own concerns regarding high staff turnover and inadequate healthcare.⁴
- In August 2021, Immigrant Defense Advocates, the California Collaborative for Immigrant Justice, and Disability Rights California released a [report on detention](#)

¹ Off. of Insp. Gen., OIG-21-12, *ICE Needs to Address Prolonged Administrative Segregation and Other Violations at the Imperial Regional Detention Facility* (Dec. 18, 2020), available at:

<https://www.oig.dhs.gov/sites/default/files/assets/2020-12/OIG-21-12-Dec20.pdf>

² California Department of Justice, “Review of Immigration Detention in California”, p. 80, January 2021, available at: <https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/immigration-detention-2021.pdf>

³ Ibid.

⁴ Ibid. p. 76.

conditions resulting in over 50 partner organizations calling on California state agencies to take immediate action to address the urgent dangers cited.

- The report included multiple powerful testimonials from individuals detained at Imperial which describe recklessly unsanitary conditions and physical retaliation from MTC staff in response to a peaceful hunger strike.
- In October 2021, following California’s passage of AB 3228, the Accountability in Detention Act, MTC was the first private prison company to be sued for damages by Carlos Murillo, an individual formerly detained at Imperial.⁵ Mr. Murillo, who grew up in Imperial County, was held in solitary confinement from December 2019 to February 2021.⁶ The lawsuit alleges that “MTC repeatedly violated the minimal standards of care to which it was bound” and that “MTC acted with a conscious disregard of Mr. Murillo’s rights and safety, and with oppression and malice.”

Environmental concerns of the surrounding community

Imperial County suffers from some of the worst air quality in the country.⁷ In the American Lung Association’s most recent State of the Air report from 2019, which analyzes quality-assured data from the U.S. Environmental Protection Agency (“EPA”), Imperial County received “failing grades” for its toxic ozone⁸ and 24-hour particle pollution measurements, and the county seat of El Centro (approximately 15 miles north of Calexico) ranked as the metropolitan area with the 10th worst annual particle pollution out of 199 metropolitan areas measured across the United States. ICE and MTC located Imperial Regional Detention Facility in a place which the American Lung Association describes by saying “if you live in Imperial County, the air you breathe may put your health at risk.”⁹

According to the American Lung Association, “decades of research have firmly established that breathing particle pollution day in and day out can also be deadly,” and recent research has “reconfirmed that long-term exposure to PM2.5 [small particle pollution] was associated with elevated risks of early death.” In adults, long-term particle pollution exposure is linked to:

- Increased risk of death from existing cardiovascular and respiratory disease;
- Increased risk of heart attacks and strokes;
- Higher likelihood of developing diabetes;

⁵ Castillo, Andrea, “ICE held a man in solitary confinement for more than a year. He’s suing under a new California law”, *Los Angeles Times*, October 14, 2021, available at:

<https://www.latimes.com/california/story/2021-10-14/ice-lawsuit-california-solitary-confinement-detention-citizen>

⁶ Carlos Murillo Vega v. Management and Training Corporation, *Complaint for (1) Violation of Cal. Gov. Code Section 7320; (2) Negligence; (3) Intentional Infliction of Emotional Distress*, October 14, 2021, available at: <https://lccrsf.org/wp-content/uploads/2021/10/2021-10-14-AB3228-Complaint.pdf>

⁷ Newburger, Emma, “Ghost towns and toxic fumes: How an idyllic California lake became a disaster,” CNBC, November 6 2021, available at:

<https://www.cnbc.com/2021/11/06/californias-salton-sea-spewing-toxic-fumes-creating-ghost-towns-.html#:~:text=Cramer-,Ghost%20towns%20and%20toxic%20fumes%3A%20How%20an.California%20lake%20became%20a%20disaster&text=The%20Salton%20Sea's%20increasing%20salinity.has%20been%20shrinking%20for%20decades.>

⁸ American Lung Association, “Health Impact of Air Pollution, available at:

<https://www.lung.org/research/sota/health-risks>

⁹ American Lung Association, “State of the Air: California: Imperial”, available at:

<https://www.lung.org/research/sota/city-rankings/states/california/imperial>

- Higher likelihood of getting lung cancer and of dying from it;
- Impaired cognitive functioning and an increased risk of Parkinson’s disease, Alzheimer’s disease and other dementias later in life.¹⁰

Even short-term exposure to low levels of particulate pollution can be deadly. According to the American Lung Association, short-term exposure to particulate pollution is associated with premature death, increased infant mortality, and increased hospitalizations for cardiovascular disease, among other adverse health outcomes.¹¹

The devastatingly harmful air quality has been well-documented by local communities, which have been leading efforts for decades to counter the profit-driven forces that are to blame for the current conditions. In addition to ozone and particle pollution, there is a pervasive “rotten-egg odor” (as described by local community members) that arises from a noxious gas called hydrogen sulfide that is released from decaying material in the local sea’s oxygen-deprived water.¹² In 2019, the Imperial County Board of Supervisors [declared a local state of emergency](#) due to the terrible air pollution in the region, with the board chair declaring that “this is an environmental crisis that has already occurred, that has caused a massive die-off of birds, and now we’re at a point where human health is being affected.”¹³

II. Lack of Adequate Filtration Systems at Imperial

While communities across Imperial Valley are affected by the toxic and odorous air, individuals detained at Imperial are uniquely forced to breathe this air while caged in cells that have little to no air filtration. Inadequate “ventilation and air flow” has been found to violate the Eighth Amendment if it undermines health and sanitation,¹⁴ which it evidently does at Imperial.

“The surrounding community (Imperial County) where Imperial Regional Detention Facility is physically situated is suffused with environmental hazards and pollutants as the use of fertilizers is prevalent in this community. The Imperial County is also the geographical point of the wors[t] air quality control in the country. The atmosphere in this community is constantly clouded with dust that has been documented to contain toxins like arsenic and selenium. It is my assertion that due to the inadequate filtration in the building’s ventilation system inside this facility, including inside these solitary confinement torture cells, we are completely vulnerable and susceptible to the toxic fumes from the fertilizers that permeate heavily inside the building and to the voluminous dust

¹⁰ American Lung Association, “Health Effects of Particle Pollution,” <https://www.lung.org/research/sota/health-risks>

¹¹ Ibid.

¹² Newburger, Emma, “Ghost towns and toxic fumes: How an idyllic California lake became a disaster,” CNBC, November 6 2021, available at: <https://www.cnbc.com/2021/11/06/californias-salton-sea-spewing-toxic-fumes-creating-ghost-towns-.html#:~:text=Cramer,Ghost%20towns%20and%20toxic%20fumes%3A%20How%20an.California%20lake%20became%20a%20disaster&text=The%20Salton%20Sea's%20increasing%20salinity.has%20been%20shrinking%20for%20decades.>

¹³ Wilson, Janet, “Imperial County declares Salton Sea emergency, demands California take action,” Palm Springs Desert Sun, October 22, 2019, available at: <https://www.desertsun.com/story/news/environment/2019/10/22/imperial-county-declares-salton-sea-emergency-demands-california-take-action/4064788002/>

¹⁴ Hoptowit v. Spellman, 753 F.2d 779, 784 (9th Cir.1985).

exposure that freely flows inside this facility, subjecting us to the health risks of such environmental hazards. I myself have developed sinusitis and experience constant headaches.”

– Juan Carlos Sanchez Rivera, written grievance to MTC on December 22, 2021

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*“Sometimes the odors are unbearable, especially when we are supposed to be eating dinner. I feel like they are doing it on purpose. **This is a form of torture.**”¹⁵*

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- On April 14, 2020, Ramon Dominguez first reported the “cruel and unusual conditions” at Imperial in a letter to Freedom for Immigrants.¹⁶
- On November 13, 2021, Juan Carlos Sanchez Rivera reported the noxious air to the Freedom for Immigrants Hotline, noting that it was worse inside the building than outside. Mr. Sanchez reported that it smelled “like a sewer” inside the facility.
- On November 21, 2021, Mr. Dominguez submitted a written grievance to the Imperial Facility Administrator, Rolando Treviño, regarding the noxious and odorous air inside the facility. In the grievance, Mr. Dominguez informed MTC management that “throughout all times of the day it reeks of very strong fertilizer odor coupled with cow manure and sewage stench that is the result of the facility’s bad ventilation filtration system.”¹⁷ This grievance was subsequently categorized as “unfounded” by MTC despite their written concession that these exact odors had indeed been “confirmed by Imperial County Air Quality Control.” MTC’s inadequate response continued to note that Imperial has “Carrier units that circulate ambient air, cleaned through a filter that is changed on a monthly basis” and that “the odor outside is beyond MTC control.”¹⁸
- On November 22, 2021, Mr. Dominguez reported to the Freedom for Immigrants Hotline that fumes from fertilizers used in the surrounding fields were entering the facility. Mr. Dominguez reported that local community members had been advised to stay indoors due to the fertilizer pollution from the farming land surrounding Imperial, but that there was no ability for the individuals detained at Imperial to protect themselves from the outside air coming into the facility. Mr. Dominguez also reported that multiple staff have complained about the air’s impact on their health complications.
- On November 29, 2021, Mr. Dominguez reported to the Freedom for Immigrants Hotline that a maintenance staff member had shared with him that the Carrier filters are changed every three months, not once per month as claimed by MTC staff. This is evident to those

¹⁵ Report from Ramon Dominguez Gonzalez with advocates from Freedom for Immigrants, Earthjustice, Innovation Law Lab, and California Collaborative for Justice on December 17, 2021.

¹⁶ Letter from Ramon Dominguez Gonzalez to Freedom for Immigrants, dated April 14, 2020, available at: <https://drive.google.com/file/d/1AOGZWuvZeCjCVdRkVhzLUQJlh5Wuojsr/view>

¹⁷ Grievance #151272192, filed by Ramon Dominguez Gonzalez (A#043-439-804) on November 21, 2021, available at: https://drive.google.com/file/d/1_j-EEvYfzeGw_mhnyU17b3cHfOBOefpC/view?usp=sharing

¹⁸ Grievance #151272192, filed by Ramon Dominguez Gonzalez (A#043-439-804) on November 21, 2021, available at: https://drive.google.com/file/d/1_j-EEvYfzeGw_mhnyU17b3cHfOBOefpC/view?usp=sharing

detained inside because “you can smell the toxic air and the dust is visible. MTC, the profit company, is definitely not wanting to pay for an expensive filtration system.”¹⁹

- On December 20, 2021, Mr. Dominguez reported to the Freedom for Immigrants Hotline that in a conversation with staff members at Imperial, they confirmed that the dust that impacts the local community does not impact them in their own homes because of community members’ effective filtration systems.
- On December 21, 2021, Donald Varela Fernandez reported to Innovation Law Lab that “the air quality is really bad” and, “I don’t think they’ve changed the air filters for a year.”
- On December 22, 2021, Mr. Sanchez submitted a grievance to MTC, the private facility operations company, pursuant to Performance-Based National Detention Standard (PBNDS) 1.2: Environmental Health and Safety, noting that Imperial Regional Detention Facility is located at the epicenter of a host of environmental hazards and asking MTC, and ICE at Imperial to install adequate filtration and ventilation systems. Mr. Sanchez’s grievance was subsequently categorized as “unfounded” by MTC staff, who alleged that their “equipped air system is filtered and filters are replaced monthly” and that “the odor outside is beyond MTC control.”²⁰ See attachment for more details.

As shown in both Mr. Domiguez’s and Mr. Sanchez’s grievances to MTC, staff acknowledge that the malodorous air is beyond the control of the facility. Meanwhile, filtration systems and cleaning routines, alleged by staff to be sufficient, are plainly inadequate and lead to health problems for those inside the facility, such as those noted by Mr. Varela Fernandez and others. These facts underscore the urgent need to release those detained at Imperial to their communities and to end the ICE contract with the facility.

While these reports of toxic and odorous air are evidently not new, the severity has seemingly increased over this past year. Despite multiple grievances that have been submitted by detained individuals regarding the air for years, ICE and MTC have done nothing to fix, or even mitigate, the issue. People detained at Imperial understand that MTC and ICE do not have control over the local environment; they “are asking for an effective filtration system to filter out the toxic air, dust, and dirt inside the facility.”²¹

According to ICE’s own 2011 Performance-Based National Detention Standards (PBNDS) with which ICE and MTC are obligated to comply per the Imperial detention contract, “environmental health conditions shall be maintained at a level that meets recognized standards of hygiene, including Occupational Safety and Health Administration.”²² Both individuals in ICE detention at Imperial who participate in the Work Program, which pays \$1 per day, as well as paid staff members contracted through ICE or MTC should have their health and wellbeing protected in

¹⁹ Report from Ramon Dominguez Gonzalez with advocates from Freedom for Immigrants, Earthjustice, Innovation Law Lab, and California Collaborative for Justice on December 2, 2021

²⁰ Grievance #156013372 filed to MTC by Juan Carlos Sanchez Rivera (A#073-830-803) on December 22, 2021, available at: <https://drive.google.com/file/d/1Hcin2ootERmqlyuqyrpBbiwbiJ9pQjBM/view?usp=sharing>

²¹ Report from Ramon Dominguez Gonzalez with advocates from Freedom for Immigrants, Earthjustice, Innovation Law Lab, and California Collaborative for Justice on December 2, 2021.

²² U.S. Immigration and Customs Enforcement, Performance Based National Standards 2011, 1.2 Environmental Health and Safety, available at: https://www.ice.gov/doclib/detention-standards/2019/1_1.pdf

accordance with Occupational Safety and Health Administration (OSHA) standards regarding toxic air:

*“In the control of those occupational diseases caused by breathing air contaminated with harmful dusts, fogs, fumes, mists, gases, smokes, sprays, or vapors, the primary objective shall be to prevent atmospheric contamination. This shall be accomplished as far as feasible by accepted engineering control measures (for example, enclosure or confinement of the operation, general and local ventilation, and substitution of less toxic materials). When effective engineering controls are not feasible, or while they are being instituted, appropriate respirators shall be used pursuant to this section.”*²³

It is clear that ICE and MTC are violating OSHA standards and should be held accountable. The Health Oversight and Leadership in Detention Act, entered into effect in California in January 2021, mandates that MTC must comply with, and adhere to, not only all local or state public health orders but also occupational health and safety regulations, and ensure CAL/OSHA safety regulations are followed inside Imperial.²⁴

In addition, the Centers for Disease Control and Prevention (CDC) is explicit in its emphasis on the critical need, especially during the COVID-19 pandemic, to “improve central air filtration” and “make sure air filters are properly sized and within their recommended service life.”²⁵

III. Toxic Dust and Violations of Environmental Health and Safety

“On the AC vent itself, all of them, it's brown. ... 20 centimeters all around the vent, there's an accumulation of dirt. Dirt all around it — dirt, dirt, dirt. They haven't cleaned this, since I don't know when. You see particles in the air as well, dirty air. In general, not just beside the vent. There are people who have problems with respiration, for the same reason, ... bloody noses, due to the air conditioning.” – Donald Varela Fernandez, report to Innovation Law Lab on January 4, 2022

As noted in Mr. Sanchez's grievance above, people at Imperial County experience high levels of exposure to the dust billowing from dry lake-beds, which contains toxic metals like arsenic,²⁶ a known human carcinogen.²⁷ While ICE states that they “ensure a safe environment for detainees

²³ U.S. Department of Labor, Occupational Safety and Health Administration (OSHA), Standard Number 1910.134 - Respiratory Protection, available at: [https://www.osha.gov/laws-regs/interlinking/standards/1910.134\(a\)\(1\)](https://www.osha.gov/laws-regs/interlinking/standards/1910.134(a)(1))

²⁴ California Legislative Information, “AB-263 Private detention facilities (2021-2022)”, available at: https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB263

²⁵ Centers for Disease Control & Prevention, “Ventilation in buildings,” updated June 2, 2021, available at: <https://www.cdc.gov/coronavirus/2019-ncov/community/ventilation.html>

²⁶ Newburger, Emma, “Ghost towns and toxic fumes: How an idyllic California lake became a disaster,” CNBC, November 6 2021, available at: <https://www.cnbc.com/2021/11/06/californias-salton-sea-spewing-toxic-fumes-creating-ghost-towns-.html>

²⁷ International Agency for Research on Cancer, “Arsenic and Arsenic Compounds,” available at: <https://monographs.iarc.who.int/wp-content/uploads/2018/06/mono100C-6.pdf>

and employees,” that is evidently not the case at Imperial as the facility is engulfed with dirt, dust, and odorous harmful air.

Imperial is located in the Imperial Valley which forms part of the Colorado Desert, an area “bordered by sand dunes and barren mountains.”²⁸ It is well-known that the environmental factors, like heat and wind, in the surrounding areas cause excessive dust and dirt build-up. On November 22, 2021, Mr. Dominguez reported to the Freedom for Immigrants Hotline that “everything inside Imperial is covered with dust because the air filtration system does not work.”

According to the 2011 PBNDS, “doors to the outside should be tight fitting and door sweeps should be installed to prevent the entry of vermin from outside.”²⁹ During a call received by Freedom for Immigrants on December 20, 2021, Mr. Dominguez-Gonzalez reported that the doors to the outside at Imperial have large gaps at the bottom, which is one of the ways that so many insects and pests as well as excessive amounts of dirt and dust are able to enter the facility. The fact that the interior of IRDF is so regularly and broadly covered with dust demonstrates that MTC and ICE are not following their own policies and habitually disregard the safety and wellness of people in their custody and their employees.

In Mr. Dominguez’s November 21, 2021 written grievance to Facility Administrator Treviño regarding the noxious and odorous air, he also included his serious concerns about the dust: the “high interior building walls are sheeted with dust, and the residue of dust covers every light fixture and object inside this building.”³⁰ Despite clear documentation of this environmental hazard, neither MTC nor ICE have responded to or acknowledged concerns regarding the excessive level of particulate matter.

IV. Serious Health Consequences

As noted earlier in this complaint, it has been well-documented that the toxic air, dust, and dirt that pervade Imperial County have serious and concerning health impacts on its inhabitants. In fact, Imperial County has one of the highest rates of asthma-related emergency room visits for children in California, double the state average, [according to research](#) in the International Journal of Environmental Research and Public Health.³¹ As a result of individuals’ continual ingesting and inhalation of toxic air and dust, people detained at Imperial have reported serious respiratory and medical complications, with potentially long-term and even fatal consequences.

*“I myself have developed sinusitis and experience constant headaches.”*³²

²⁸ “Imperial Valley,” Britannica, available at: <https://www.britannica.com/place/Imperial-Valley>

²⁹ U.S. Immigration and Customs Enforcement, Performance Based National Standards 2011, 1.2 Environmental Health and Safety, available at: https://www.ice.gov/doclib/detention-standards/2019/1_1.pdf

³⁰ Grievance #151272192, filed by Ramon Dominguez Gonzalez (A#043-439-804) on November 21, 2021, available at: https://drive.google.com/file/d/1_j-EEvYfzeGw_mhnyU17b3cHfOBQefpC/view?usp=sharing

³¹ Newburger, Emma, “Ghost towns and toxic fumes: How an idyllic California lake became a disaster,” CNBC, November 6 2021, available at: <https://www.cnbc.com/2021/11/06/californias-salton-sea-spewing-toxic-fumes-creating-ghost-towns.html>

³² Grievance #156013372 filed to MTC by Juan Carlos Sanchez Rivera on December 22, 2021, available at: <https://drive.google.com/file/d/1Hcin2ootERmqlyuqyrbBbiwbiJ9pQjBM/view?usp=sharing>

“Many of us have developed breathing issues as a result. Multiple staff have expressed concerns about the toxic air causing health complications It is not just the smell of the fertilizer and chemicals used in the field, but also the dust and dirt that comes into the facility that comes into our lungs.” – Mr. Dominguez, report to advocates on December 2, 2021

“I know people who have had headaches, sinus and stomach issues from breathing the toxic air.”
– Mr. Dominguez, report to advocates on December 9, 2021

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“There are people who have problems with respiration, for the same reason. The air vents are very dirty. There have been people who have had problems, bloody noses, due to the air conditioning. In the morning, I’ve gotten up with a throat ache. . . . They give you a tube, you touch it and it sprays a liquid that cleans your nose. They give it only to people with respiratory problems. Here in the unit there’s someone who has to do this, who has nosebleeds. There were also two others with this who have now left.” – Donald Varela Fernandez, report to Innovation Law Lab on January 4, 2022

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- On November 12, 2021, an anonymous caller reported to the Freedom for Immigrants Hotline that he was experiencing breathing problems and migraines as a result of the poor air quality and lack of ventilation. This caller filed a written grievance with MTC on November 10, 2021, but no one had contacted him regarding the issue nor addressed it. This is a blatant violation of the PBNDS.³³
- On November 12, 2021, an anonymous caller reported to the Freedom for Immigrants Hotline that due to the poor air quality and fertilizer fumes coming into the facility, he was experiencing difficulty breathing and gastrointestinal symptoms including stomach pain.
- On November 12, 2021, another individual who wishes to remain anonymous due to concerns regarding retaliation, reported to the Freedom for Immigrants Hotline that he too was having trouble breathing due to the toxic air in the facility.
- On November 13, 2021, Juan Carlos Sanchez Rivera reported to the Freedom for Immigrants Hotline that people inside Imperial were experiencing respiratory and digestive problems as a result of the toxic air and water.
- On January 4, 2022, Mr. Varela Fernandez reported that dirt is visibly accumulated around the air vents in the unit, which appear not to have been cleaned for a long time. He has experienced throat aches and has witnessed multiple individuals with respiratory problems and nosebleeds resulting from the quality of the air, which has visible particles in it. Mr. Varela Fernandez is additionally suffering persistent bodily pain from injuries sustained prior to his detention, which have not been adequately treated at Imperial.

V. Contaminated Water

³³ U.S. Immigration and Customs Enforcement, Performance Based National Standards 2011, 4.3 Medical Care V.S.4, available at: <https://www.ice.gov/doclib/detention-standards/2011/4-3.pdf>

On July 22, 2021, Freedom for Immigrants submitted a complaint to the DHS Office for Civil Rights and Civil Liberties (CRCL) documenting visible water contamination and the taste of bleach in the drinking water at Imperial.³⁴ Approximately one month later, Freedom for Immigrants received a generic boilerplate response from CRCL with no indication regarding their willingness to address this critical human rights violation.³⁵

ICE and MTC are required to provide “safe, potable water... available throughout the facility.”³⁶ Instead, the unsafe, unlivable, and inhumane conditions at Imperial include the unavailability of adequate drinking water. According to the 2011 PBNDS, “at least annually, a state laboratory shall test samples of drinking and wastewater to ensure compliance with applicable standards. A copy of the testing and safety certification shall be maintained on site.”³⁷ On December 20, 2021, Mr. Dominguez reported to the Freedom for Immigrants National Hotline that MTC has refused to produce a copy of any such testing and safety certification.

The water at IRDF is not even safe for physical contact for at least some of the individuals living at the facility. In January 2022, an individual who chooses to remain anonymous shared with the California Collaborative for Immigrant Justice that after only eight days of being detained at Imperial, he developed painful, irritating spots and a fungal infection on the skin of his testicles and legs. The medical treatment he has received there has been ineffective, and he has continued to suffer from these symptoms for months.

While detained at IRDF on October 19, 2021, Estelito Adiova Carpio reported to the California Collaborative for Immigrant Justice that for the first time in his life, he had developed an allergic reaction. After drinking and showering in the water at Imperial, he broke out into hives and his whole body felt very itchy, like it was burning. He experienced this sensation four to five times a day while detained, and months later, continues to suffer from this condition after being released. While detained last year, he also started suffering from eye floaters (vision spots), though he had never had vision problems prior to detention. While detained at IRDF, Mr. Carpio had to begin using prescription glasses as he now has considerable trouble seeing. Eye floaters and reduced visual acuity can both be caused by posterior uveitis, itself a potential consequence of contaminated water.

Access to clean and safe water for drinking and washing is a fundamental human necessity. Despite this, MTC and ICE continue to deprive individuals in their custody of access to safe, potable water. MTC’s and ICE’s respective refusals to ensure safe drinking water or adequately improve the quality of the water in response to complaints and illness are, in short, significant human rights violations.

VI. Mold

³⁴ Freedom for Immigrants, “Contaminated Water, Medical Neglect, and Unsanitary Conditions at Imperial Regional Detention Facility” addressed to DHS Office for Civil Rights and Civil Liberties, dated July 22, 2021, available at: <https://drive.google.com/file/d/1d04sYL113sbz1ZFzreht2oljS8cuL7UL/view?usp=sharing>

³⁵ DHS Office for Civil Rights and Civil Liberties, “CRCL Reference No. 001622-21”, dated August 20, 2021, available at: <https://drive.google.com/file/d/1-dWaSsFwV2Fm3ko3sWUaLu64OUVka-il/view?usp=sharing>

³⁶ U.S. Immigration and Customs Enforcement, Performance Based National Standards 2011, 1.2 Environmental Health and Safety, available at: https://www.ice.gov/doclib/detention-standards/2019/1_1.pdf

³⁷ Ibid.

Although the 2011 PBNDS state that “facility cleanliness and sanitation shall be maintained at the highest level,”³⁸ the 2020 DHS OIG investigation “observed mold, rust, and peeling paint in showers in detainee housing areas” at Imperial.³⁹ In their report, OIG recommended that ICE and MTC “review the IRDF facility conditions we identified as deficient to ensure corrective action in compliance with 2011 PBNDS requirements.”⁴⁰

ICE’s written response to this recommendation was notably lacking in detail or evidence: “In March 2020, IRDF quickly corrected the living conditions identified as deficient in response to findings from the inspection, as the facility takes environmental health and safety very seriously.”⁴¹ In contrast, on December 17, 2021, Mr. Dominguez reported that although OIG had documented the mold in the showers, there had been no changes at all since the report’s issuance. When ICE had allegedly agreed to “correct” the “deficient” conditions, this had merely entailed staff members at Imperial covering up the mold with paint.

Because the issue was never fully resolved, the mold quickly became visible once more and remains pervasive throughout the showers to this day. The hazardous mold, in addition to the toxic air, dust, and contaminated water, is yet another example of the complete and utter disregard for the safety, well-being, and dignity of those detained by ICE and MTC at Imperial.

VII. Recommendations

These are only a few of the serious, life-threatening consequences from the toxic air, dust, contaminated water, and mold being inhaled by people detained at Imperial. While the lack of environmental health and safety precautions is an often overlooked concern at all ICE detention facilities, due to a combination of location and severe negligence, the impact on those detained at Imperial is particularly harmful. The bodies tasked with oversight of detention conditions must no longer ignore or minimize ICE’s and MTC’s clear and utter disregard for the safety, well-being, and dignity of those detained. We therefore request the following:

1. That the DHS Office of Civil Rights and Civil Liberties and/or the Office of Inspector General immediately open investigations into the toxic air, dust, water, and mold at Imperial, including the resulting medical complications; that such investigations include recommendations to eliminate, or at least mitigate, any harmful or hazardous conditions at IRDF.
2. That the DHS Office of Civil Rights and Civil Liberties and the Office of Inspector General recommend that ICE detention contract be terminated and that Imperial be closed, because it is dangerous and inhumane for individuals to live in these conditions,

³⁸ U.S. Immigration and Customs Enforcement, Performance Based National Standards 2011, 1.2 Environmental Health and Safety, available at: https://www.ice.gov/doclib/detention-standards/2019/1_1.pdf

³⁹ U.S. Department of Homeland Security, Office of Inspector General, Report titled: “ICE Needs to Address Prolonged Administrative Segregation and Other Violations at the Imperial Regional Detention Facility,” December 2020, available at: <https://www.oig.dhs.gov/sites/default/files/assets/2020-12/OIG-21-12-Dec20.pdf>

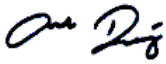
⁴⁰ Ibid.

⁴¹ Ibid.

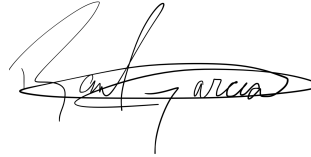
and that the funds devoted to incarceration at Imperial be devoted instead to healthy social and economic opportunities in the local community; and

- 3. That all individuals detained at Imperial be immediately released to their communities and loved ones.** Until then, we will remain vigilant and concerned regarding the health and safety of those detained at Imperial given the lengthy and documented history of egregious and unlivable conditions and inadequate medical care. ICE and MTC have proven themselves unable and unwilling to provide those in their custody with any semblance of safety.

We look forward to your prompt attention to this issue.



Amanda Diaz
National Hotline Manager
Freedom for Immigrants
adiaz@freedomforimmigrants.org



Raul E. Garcia
Legislative Director, Healthy Communities
EARTHJUSTICE
rgarcia@earthjustice.org



Rebecca Merton
Director of Visitation and Independent Monitoring
Freedom for Immigrants
rmerton@freedomforimmigrants.org



Craig Scott
Co-Coordinator
Desert Support For Asylum Seekers



PJ Podesta
Program Manager, Anticarceral Legal Organizing
Innovation Law Lab
pj@innovationlawlab.org



April Newman
Vaccine Education & Empowerment in Detention
Manager
California Collaborative for Immigrant Justice
april@ccijjustice.org



Rev. Deborah Lee
Executive Director
Interfaith Movement for Human Integrity
dlee@im4humanintegrity.org

