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February 17, 2021

**Via email**

Jeffrey Searls  
Officer in Charge  
Buffalo Federal Detention Facility  
4250 Federal Dr., Batavia NY 14020

**Re: COVID-19 Vaccine Distribution at the Buffalo Federal Detention Facility**

Dear Mr. Searls:

The New York Civil Liberties Union, together with the undersigned organizations, write seeking information with respect to the Buffalo Federal Detention Facility's ("BFDF") plan to provide access to COVID-19 vaccinations to the hundreds of people incarcerated and employed at the facility. The undersigned have clients in immigration detention at BFDF and are deeply concerned that no information has been communicated to these clients, their counsel, or to the public about whether, when, and how ICE plans to make the vaccine available to those who are incarcerated or employed within the facility. We ask that you respond immediately to this letter by explaining your plan for providing access to the COVID-19 vaccine to people detained or employed at BFDF. We further ask that any such plan includes the provision of education and resources to detained persons about the vaccine so that they may make an informed choice about their medical care. To the extent there is no plan in place, we urge that you create one to ensure that both those incarcerated and employed at BFDF are protected from further harm.

As you know, BFDF is the most populous immigration detention facility in New York, with an average daily census exceeding 600 people.<sup>1</sup> Individuals confined there — like people in any congregate setting — face a sharply heightened risk of contracting COVID-19. Recent data on the skyrocketing incidence of COVID-19 in ICE facilities, including BFDF, bear out that reality: The number of confirmed COVID-19 cases at ICE facilities nationwide is surging towards 10,000<sup>2</sup>; and ICE has reported repeated, ongoing outbreaks of COVID-19 at BFDF specifically.<sup>3</sup>

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<sup>1</sup> Declaration of Kyle A. Hobart, Assistant Officer in Charge, dated April 18, 2019.

<sup>2</sup> Noelle Smart and Adam Garcia, *Tracking COVID-19 in Immigration Detention*, Vera Institute of Justice, (last accessed Feb. 11, 2021) available at: <https://www.vera.org/tracking-covid-19-in-immigration-detention>.

<sup>3</sup> See *Jones v. Wolf*, No. 20-CV-00361(W.D.N.Y. filed Oct. 21, 2020 to Dec. 23, 2020), ECF Nos. 137–47 (status letters reporting new cases of COVID-19 within BFDF).

Recognizing the increased threat that COVID-19 poses in congregate settings like BFDF, the Centers for Disease Control (“CDC”) and other leading health experts have advised that people in detention facilities be prioritized for vaccination alongside facility staff “because of their shared increased risk of disease.”<sup>4</sup> In line with these priorities, the Federal Bureau of Prisons, has already delivered vaccines to more than half of the people incarcerated and employed in its facilities and project that all staff and incarcerated individuals in its facilities will receive the first dose by mid-February.<sup>5</sup>

In contrast, it appears that BFDF has not begun offering COVID-19 vaccinations to those incarcerated at or employed by the facility. Despite the urgent need to prioritize this population, ICE has not provided the public with *any* information about when it might offer the COVID-19 vaccine to the thousands of people it detains. To that end, we ask that you provide the following information by February 24:

1. Who is tasked with COVID-19 vaccine distribution at BFDF?
2. How, if at all, will New York State be involved in ensuring the vaccine is offered to those at BFDF?
3. How is BFDF determining who, if anyone, within the facility should be prioritized as high-risk?
4. If the number of high-risk individuals exceeds BFDF’s allotment, how will vaccines be rationed?
5. When will COVID-19 vaccines be offered to people incarcerated at BFDF?
6. How will BFDF ensure that individuals receive both doses of the vaccine if they are released between doses?
7. When will COVID-19 vaccines be offered to staff working at BFDF?
8. Will BFDF staff be required to take the vaccine?
9. What information will be provided to people incarcerated at BFDF about the vaccine and in what format?
10. How does BFDF plan to address any concerns/fears incarcerated people at BFDF may have about the vaccine?

We look forward to hearing from you on this important issue.

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<sup>4</sup> See *Vaccine FAQs in Correctional and Detention Centers*, CTR. FOR DISEASE CONTROL AND PREVENTION (Jan. 11, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/vaccine-faqs.html> (last accessed Feb. 2, 2021) (explaining that “[o]utbreaks in correctional and detention facilities are often difficult to control given the inability to physically distance, limited space for isolation or quarantine, and limited testing and personal protective equipment resources.”); Helene Gayle et al., *Framework for Equitable Allocation of COVID-19 Vaccine*, NAT’L ACAD. OF SCI., ENG’G, & MED. 6 (2020), <https://www.nap.edu/catalog/25917/framework-for-equitable-allocation-of-covid-19-vaccine>.

<sup>5</sup> Federal Bureau of Prisons, *COVID-19 Vaccination Efforts Commended* (Jan. 16, 2021) available at [bop.gov/resources/news/20210116\\_covid\\_vaccine\\_efforts\\_commended.jsp](https://bop.gov/resources/news/20210116_covid_vaccine_efforts_commended.jsp).

Sincerely,

NEW YORK CIVIL LIBERTIES UNION

By:  /s/ Amy Belsher  
Amy Belsher, *Staff Attorney*  
Antony Gemmell, *Senior Staff Attorney*  
Lupe Aguirre, *Staff Attorney*  
Jordan Laris Cohen, *Legal Fellow*

*and*

THE BRONX DEFENDERS  
BROOKLYN DEFENDER SERVICES  
THE LEGAL AID SOCIETY