

# Reconsidering Immigration Enforcement During COVID-19: an Opportunity to Set Our Priorities Straight

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A joint publication from Berkeley Interdisciplinary Migration Initiative & the Othering & Belonging Institute at UC Berkeley



Source: [Los Angeles Times](#)

On March 16 2020, Governor Gavin Newsom issued a statewide stay-at-home order, urging Californians to avoid leaving home except for essential activities. The following day, Immigration and Customs Enforcement (ICE) agents, armed with N-95 masks, raided immigrant communities in Los Angeles. Despite the governor's stay-at-home order, ICE continued with business as usual. However, in a recent publication in the *American Journal of Public Health*, Seth Holmes, BIMI-affiliate and UC Berkeley Professor of Medical Anthropology and Public Health, and Miriam Magaña Lopez, staff member in the UC Berkeley Othering and Belonging Institute, explain why immigration authorities should not continue with business as usual during this global pandemic. Magaña Lopez and Holmes describe multiple ways that immigration enforcement, including raids, detention, and deportation, undermines the public health of not just immigrant communities but society as a whole.

Magaña Lopez and Holmes close their article with a call to reform because the pandemic offers us “a historic opportunity to set our priorities straight” in regards to immigration enforcement.<sup>1</sup> This policy brief will first discuss Magaña Lopez and Holmes's research on the ways in which immigration enforcement is

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undermining public health. Subsequently, the brief will discuss one example, referenced by Magaña Lopez and Holmes, of a decision to “set our priorities straight:” Judge Dolly M. Gee's order that ICE release all children from their family detention centers.

<sup>1</sup> Magaña Lopez, Miriam, and Seth M. Holmes. 2020. “Raids on Immigrant Communities During the Pandemic Threaten the Country's Public Health.” *American Journal of Public Health* 110(7):958–59.



## Raids, detentions, and deportations undermine public health

Aside from the direct impact that raids have on the health of immigrant communities,<sup>2</sup> Magaña Lopez and Holmes demonstrate other ways that immigration enforcement undermines the public health of not just immigrant communities but the country as a whole. Immigration enforcement has aggravated a shortage of critical protective equipment, and by violating government orders and public health violations, immigration agencies have sown mistrust in the public institutions that prevent and treat COVID-19.

While frontline medical workers have been denied access to masks, on March 20, ICE bid on 45,000 more N95 masks to be distributed across all 26 field offices.<sup>3</sup> Due to the fact that the ICE agents were equipped with N95 masks, the raids on March 17th only aggravated the already severe shortage of personal protective equipment. Additionally, the movement of immigration officials--raiding immigrant communities--and the movement of immigrants--into overcrowded detention centers and deported across borders--demonstrate the ways in which immigration enforcement contravenes public health recommendations and shelter-in-place orders.

Magaña López and Holmes also highlight how immigration enforcement during the pandemic fosters distrust in public institutions because the immigration officials who carry out raids, deportations, and detentions aren't held to the same stay-at-home orders as the public. Punitive and unrelenting immigration enforcement of this kind will acutely impact the health of immigrant communities because it sends the message that immigrants are not safe to leave their homes to seek medical treatment if they exhibit symptoms of COVID-19. This fear will prevent immigrants from fully utilizing public health services for prevention and treatment of COVID-19, thereby likely encouraging the spread of the virus.<sup>4</sup>

<sup>2</sup> Lopez, William D., Daniel J. Kruger, Jorge Delva, Mikel Llanes, Charo Ledón, Adreanne Waller, Melanie Harner, Ramiro Martinez, Laura Sanders, Margaret Harner, and Barbara Israel. 2017. "Health Implications of an Immigration Raid: Findings from a Latino Community in the Midwestern United States." *Journal of Immigrant and Minority Health* 19(3):702-8.

<sup>3</sup> Magaña Lopez, Miriam, and Seth M. Holmes. 2020. "Raids on Immigrant Communities During the Pandemic Threaten the Country's Public Health." *American Journal of Public Health* 110(7):958-59.

<sup>4</sup> Magaña Lopez, Miriam, and Seth M. Holmes. 2020. "Raids on Immigrant Communities During the Pandemic Threaten the Country's Public Health." *American Journal of Public Health* 110(7):958-59.

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After describing how immigration enforcement undermines efforts to control the spread of COVID-19, Magaña Lopez and Holmes assert that we cannot continue with the status quo and must instead challenge an immigration system that undermines the public health of all communities. Judge Dolly M. Gee, of the US District Court for the Central District of California, accepted this challenge when, in response to rising rates of infection detention centers, she ordered that ICE must release all migrant children held in its custody in order to comply with the Flores Settlement Agreement.

### Setting our priorities straight: releasing children from detention centers

Since 1997, the Flores Settlement Agreement has shaped the way that the Federal Government detains migrant children. Jenny Lisette Flores, the lead plaintiff in the Flores settlement, fled civil war in El Salvador in 1985 in order to join her family in the United States.<sup>5</sup> Once she arrived, she hoped to reunite with her family. However, she was instead detained in an overcrowded motel in Pasadena with other migrants, including adult men, and provided insufficient food, and no recreation or education.<sup>6</sup> When Flores' case was settled in 1997, the terms of settlement required the Federal Government to comply with minimum standards for detention, follow a policy favoring release of minors, and place children in the "least restrictive environment."<sup>7</sup>

<sup>5</sup> Jordan, Miriam. 2019. "The History of Migrant Children Protection in America Started With Two Girls in Los Angeles." *The New York Times*. Retrieved September 29, 2020 (<https://www.nytimes.com/2019/08/20/us/flores-migrant-children-detention.html>).

<sup>6</sup> Id.

<sup>7</sup> National Center for Youth Law. 2020. "Flores v. Reno." National Center for Youth Law. Retrieved September 19, 2020 (<https://youthlaw.org/case/flores-v-reno/>).



Judge Gee oversees the Flores settlement, and this summer she decided that, in light of risks posed by COVID-19, the US government was not doing enough to protect detained children. On June 26, 2020, Judge Gee gave ICE one month to release all children who had been detained in their custody for more than 20 days. In her order she said that the family detention centers are “‘on fire’ and there is no more time for half measures.”<sup>8</sup> Judge Gee provided two options for ICE to release the children: release children to eligible sponsors or release children and their parents together.<sup>9</sup>

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However, the one-month deadline has expired and at least 120 children still remain in custody in one of ICE’s three family residential centers, meanwhile the virus continues to spread. By mid-August, 73 people at the Karnes Family Residential Center had tested positive for COVID-19 and 3 people at the South Texas Family Residential Center had tested positive.<sup>10</sup> Additionally, research from the Vera Institute of Justice shows

that “there is no scenario in which the data ICE has reported to the public reflects the true scope of the spread of COVID-19 in detention” and in some cases the rate of infection may be as much as 15 times higher than the reported figure.<sup>11</sup> Therefore, in order to slow the spread of the virus, and preserve family unity, ICE must comply with Judge Gee’s order by releasing detained children and their parents together without delay.

The COVID-19 pandemic demonstrates our interdependence.<sup>12</sup> The ways we treat immigrants and the consequences of punitive policies, such as family detention, have the potential to harm everyone, immigrant and non-immigrant alike. As Magaña Lopez and Holmes demonstrate, the stakes of immigration enforcement are even higher during this pandemic, which offers us, as a nation, the opportunity to re-evaluate the way in which aggressive immigration enforcement raids harm not only immigrant communities but our society as a whole. Now, more than ever, we should consider the ways in which immigration enforcement serves the health and well-being of our country because “our lives and our society depend on it.”<sup>13</sup>



Children at the South Texas Family Residential Center. Source: [Time](#)

8 Flores v. Bar, No. CV 85-4544-DMG (AGRx), 2020 WL 3488040 (C.D. Cal. June 26, 2020).

9 Id.

10 Aguilera, Jasmine. 2020. “120 Children Remain in ICE Detention Despite Court Order For Them to Be Released Due to COVID-19 Concerns.” *Time*. Retrieved September 19, 2020 (<https://time.com/5878909/children-ice-covid-19-detention-court-order/>).

11 Kuo, Dennis, Smart, Noelle, Lawrence, Zachary, and Adam Garcia. 2020. “The Hidden Curve.” Vera. Retrieved September 19, 2020 (<https://www.vera.org/the-hidden-curve-covid-19-in-ice-detention>).

12 Holmes, Seth. 2020. “As Societies Re-Open in This Pandemic, We Need Social Solidarity to Survive the Summer.” *The BMJ*. Retrieved September 29, 2020 (<https://blogs.bmj.com/bmj/2020/04/30/seth-holmes-societies-re-open-pandemic-need-social-solidarity-survive/>).

13 Magaña Lopez, Miriam, and Seth M. Holmes. 2020. “Raids on Immigrant Communities During the Pandemic Threaten the Country’s Public Health.” *American Journal of Public Health* 110(7):958–59.

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Chelsea Muir is a student at Berkeley Law. Before attending graduate school, she worked as a Princeton in Latin America Fellow in Batey Libertad, Dominican Republic. She holds a B.A. in Public Policy Analysis from Pomona College, where she wrote her undergraduate thesis on militarization of the U.S.-Mexico border. She holds a Master's of Public Policy from the Goldman School of Public Policy and conducted her thesis research with the San Francisco Public Defender's Immigrant Defense Unit. As a law student, she has worked on refugee applications with the International Refugee Assistance Project, and she was a summer Equal Justice Works Fellow at The Florence Immigrant and Refugee Rights Project.