

JAY OBERNOLTE
TWENTY THIRD DISTRICT, CALIFORNIA

**COMMITTEE ON ENERGY
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**COMMITTEE ON SCIENCE, SPACE
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INVESTIGATIONS AND OVERSIGHT, CHAIRMAN



Congress of the United States
House of Representatives
Washington, DC

WASHINGTON, D.C. OFFICE:
1029 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
TELEPHONE: (202) 225-5861

DISTRICT OFFICE:
9700 SEVENTH AVE., SUITE 201
HESPERIA, CA 92345
TELEPHONE: (760) 247-1815

E-MAIL VIA WEBSITE:
<http://obernolte.house.gov>

October 3, 2023

Patrick J. Lechleitner
Deputy Director and Senior Official Performing the Duties of the Director
U.S. Immigration and Customs Enforcement
500 12th St. SW
Washington, DC 20536

Dear Mr. Lechleitner,

As the representative for California's 23rd Congressional District, I want to express my strong support for fully utilizing the Adelanto ICE Processing Center to house individuals detained for immigration proceedings. The contract between the City of Adelanto and U.S. Immigration and Customs Enforcement (ICE) is fully funded and has a full-term expiration of December 19, 2034. I request that ICE seek relief from the absolute prohibition on intakes and transfers at the Adelanto facility outlined in Judge James Hatter Jr.'s September 29, 2020, modified preliminary injunction order. I believe that this will allow ICE to properly utilize these beds to detain criminal aliens and other individuals subject to mandatory detention under the Immigration and Nationality Act, while relieving the pressure on other overwhelmed U.S. Border Patrol facilities that are far exceeding their capacity.

I am deeply concerned about recent media reports that ICE is releasing illegal immigrants into communities across the U.S. using the justification of limited space in detention facilities. I am particularly baffled by this situation because the Adelanto ICE Processing Center was specifically designed to house individuals in immigration detention for ICE and currently has the available capacity to house 1,932 additional detainees. Even more perplexing is the fact that the COVID-19 national emergency, the primary justification used to limit the intake of new detainees at the Adelanto facility, was declared ended by President Joe Biden on May 11, 2023. ICE has spent the four months since adhering to outdated policies while there is substantial nationwide demand for more detention capability.

At a time when our communities are suffering historic levels of illegal migrants overrunning our law enforcement authorities to the point that they have been forced to use additional taxpayer resources to hold them in hotels, prisons, and other detention housing alternatives, it is unacceptable that the Adelanto facility, wherein significant taxpayer resources have already been invested, has been so underutilized and neglected. This underutilization has come at great expense to the U.S. taxpayer, a situation which was entirely avoidable and now must be corrected.

In April of 2020, a class-action lawsuit was filed against the Department of Homeland Security demanding a drastic reduction in the number of detainees at the Adelanto ICE Processing Center during the COVID-19 pandemic. During adjudication of the case, *Roman v. Wolf*, in the U.S. District Court for the Central District of California, the court sided with the petitioners, and the resulting preliminary injunction order prevented ICE from sending, and the Adelanto facility from accepting, any new detainees.

Judge Hatter was later forced to modify his initial injunction order on September 29, 2020, following a ruling from the Ninth Circuit that limited the scope of his authority. Unfortunately, the prohibition on new intakes and transfers at the Adelanto facility continued. That restriction on the federal government's use of the Adelanto facility continues through the present day.

While the government did attempt to seek relief from the modified injunction order, which included the prohibition on intakes and transfers, by appealing to the Ninth Circuit in late 2020, the appeal has been stuck languishing in mediation. Accordingly, the class-wide injunction has continued to apply to the Adelanto facility, preventing ICE from appropriately taking advantage of the potential of the detention space they are already paying for. As a direct result of that prohibition, the population at the facility has dwindled to the point where only a small handful of detainees remain at a facility with a capacity of 1,940 beds, even though the facility remains fully staffed and operational. This striking example of exorbitant government waste and resource mismanagement is completely unacceptable.

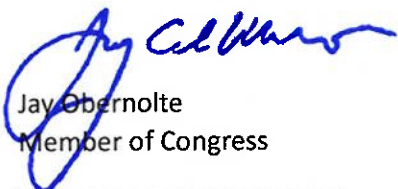
The Adelanto facility remains the only correctional facility with an absolute intake prohibition related to COVID-19 in the entire country. To put this situation into perspective, the Bureau of Prisons (BOP) facility located roughly seven miles from the Adelanto facility is currently operating at normal capacity, as are multiple State prisons.

Additionally, applicable binding case law has developed since the entry of the modified preliminary injunction order. In *Garland v. Aleman Gonzalez*, the Supreme Court repealed the precedent set by *Roman* and held that district courts are prohibited from issuing class-wide injunctive relief in this context. Shockingly, the government has not even attempted to use the updated precedent set by *Aleman Gonzalez* to persuade the Court. Instead, the government has engaged in a sluggish mediation process that has demonstrated zero progress for more than two years, despite nearly identical federal cases involving the Mesa Verde ICE Processing Facility in California and the Tacoma ICE Processing Facility in Washington having been settled by the federal government, which allowed regular intakes to resume at those locations. I find it deeply concerning that the current Adelanto case has not been settled on the exact same terms, and ICE's efforts to rectify this have been negligible. Given the huge demand, this is unacceptable.

Therefore, I call on you to instruct the Department of Justice's Office of Immigration Litigation, which is litigating this matter for ICE, to advise the Ninth Circuit and District Court that while mediation efforts are underway, based on the aforementioned changes in legal circumstances, the intake prohibition should be lifted as mediation efforts continue. The Adelanto ICE Processing Center must be allowed to resume intakes and transfers of individuals in immigration detention at pre-COVID-19 pandemic levels of operational capacity.

I appreciate your attention to this critical matter. It is my hope that you seriously consider and pursue all available avenues to allow our government to fully utilize the Adelanto ICE Processing Center. I look forward to your prompt attention to this situation and your reply to my letter outlining the steps you will be taking.

Sincerely,



Jay Obernolte
Member of Congress

CC:

Kerry E. Doyle
Principal Legal Advisor
U.S. Immigration and Customs Enforcement

Jonathan Meyer
General Counsel
Department of Homeland Security

Brian Boynton
Principal Assistant Attorney General
Department of Justice