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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

COUNTY OF SAN DIEGO, a political
subdivision of the State of California,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY; KRISTI NOEM, Secretary of
the Department of Homeland Security, in
her official capacity; U.S. IMMIGRATION
AND CUSTOMS ENFORCEMENT;
TODD LYONS, Acting Director of
Immigration and Customs Enforcement, in
his official capacity; CORECIVIC, INC., a
Maryland corporation; and DOES I-50,
inclusive.

Defendants.

No. 3:26-cv-01520-JES-MSB

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFF COUNTY OF SAN
DIEGO'S MOTION FOR
PRELIMINARY INJUNCTION**

Judge: Hon. James E. Simmons Jr.
Dept.: 4B
Date: April 15, 2026
Time: 1:00 p.m.

Oral Argument Requested

Complaint Filed: March 10, 2026

TABLE OF CONTENTS

1

2 I. INTRODUCTION 6

3 II. BACKGROUND 7

4 A. Plaintiff has undisputed statutory rights to inspect the Facility 7

5 B. Defendants interfered with Plaintiff’s inspection rights 8

6 C. Plaintiff’s Complaint for Injunctive and Declaratory Relief 9

7 III. ARGUMENT 9

8 A. Plaintiff is Likely to Succeed on the Merits..... 10

9 1. Count 1 — Judicial review of agency action (or inaction)..... 10

10 a. *Decision to limit scope of inspection*..... 11

11 b. *Decision to deny access to two inspection team members* 12

12 2. Count 2 — Compelling agency action..... 13

13 3. Count 3 — Injunctive and Declaratory relief 13

14 B. Plaintiff Will Suffer Irreparable Harm Without Preliminary Relief..... 14

15 C. The Balance of Equities Tips Heavily in Plaintiff’s Favor, and An

16 Injunction is in the Public Interest..... 16

17 IV. CONCLUSION..... 18

18
19
20
21
22
23
24
25
26
27
28

TABLE OF AUTHORITIES

Cases	Page (s)
<i>Arizona v. United States</i> , 567 U.S. 387 (2012)	12
<i>California v. Azar</i> , 911 F.3d 558 (9th Cir. 2018)	16
<i>Camarga-Alejo v. Mileto</i> , 2026 WL 234903 (S.D. Cal. 2026)	15
<i>City of Culver City v. Fed. Aviation Admin</i> , 2026 WL 571214 (9th Cir. Mar. 2, 2026)	10
<i>Corner Post, Inc. v. Bd. of Governors of Fed. Rsrv. Sys.</i> , 603 U.S. 799 (2024)	10
<i>Dep’t of Homeland Sec. v. Regents of the Univ. of California</i> , 591 U.S. 1 (2020)	10
<i>Disney Enters., Inc. v. VidAngel, Inc.</i> , 869 F.3d 848 (9th Cir. 2017)	9, 10
<i>Geo Group., Inc. v. Inslee</i> , 151 F.4th 1107 (9th Cir. 2025)	7, 11
<i>Geo Grp., Inc. v. Newsom</i> , 50 F.4th 745 (9th Cir. 2022)	7, 13
<i>Geo Grp., Inc. v. Newsom, No. 2:24-CV-02924-DAD-CSK</i> , 2025 WL 1285728 (E.D. Cal. May 2, 2025)	8, 13, 16
<i>Giron Rodas v. Lyons</i> , 2025 WL 2300781 (S.D. Cal. 2025)	15
<i>League of Wilderness Defs./Blue Mountains Biodiversity Project v. Connaughton</i> , 752 F.3d 755 (9th Cir. 2014)	17
<i>Majid v. LaRose</i> , 2026 WL 181543 (S.D. Cal. 2026)	15
<i>Markov v. Warden, Otay Mesa Detention Center</i> , 2026 WL 172973 (S.D. Cal. 2026)	15

1 *Norton v. S. Utah Wilderness All.*,
2 542 U.S. 55 (2004) 13

3 *Nwauzor v. GEO Group, Inc.*,
4 127 F.4th 750 (9th Cir. 2025) 11

5 *Ohio v. EPA*,
6 603 U.S. 279 (2024) 11, 12

7 *Phan v. Noem*,
8 2025 WL 2677393 (S.D. Cal. 2025) 15, 16

9 *Roe v. CoreCivic*,
10 2026 WL 218946 (S.D. Cal. 2026) 15

11 *Roman Cath. Diocese of Brooklyn v. Cuomo*,
12 592 U.S. 14 (2020) 14

13 *Transportation Div. of the Int’l Ass’n of Sheet Metal, Air, Rail, & Transportation*
Workers v. Fed. R.R. Admin.,
14 988 F.3d 1170 (9th Cir. 2021) 10

15 *United States v. California*,
16 921 F.3d 865 (9th Cir. 2019) 11, 13, 16

17 *United States v. Certain Parcels of Land in Riverside Cnty., Cal.*,
18 67 F. Supp. 780 (S.D. Cal. 1946) 7

19 *United States v. NCR Corp.*,
20 688 F.3d 833 (7th Cir. 2012) 14

21 *United States v. Oakland Cannabis Buyers’ Coop.*
22 (2001) 532 U.S. 483. Un 13, 14

23 *Weinberger v. Romero-Barcelo*
24 (1982) 456 U.S. 305 13

25 *Wilton v. Seven Falls Co.*,
26 (1995) 515 U.S. 277 14

27

28

CONSTITUTIONS AND STATUTES

TITLE 5 UNITED STATES CODE

1

2

3

4 Section 551(13)..... 10

5 Section 706(1)..... 13

6 Section 706(2)..... 11, 12

ARTICLE XI CALIFORNIA CONSTITUTION

7

8

9 Section 1(a) 7

CALIFORNIA GOVERNMENT CODE

10

11 Section 24000..... 13

CALIFORNIA HEALTH AND SAFETY CODE

12

13 Section 7..... 12

14 Section 101045..... 8, 9, 12, 13, 15

15 Section 120115..... 12

CALIFORNIA PENAL CODE

16

17 Section 148..... 13

18

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1 **I. INTRODUCTION**

2 Plaintiff County of San Diego (“Plaintiff”) seeks a preliminary injunction to
3 restrain Defendants from interfering with Plaintiff’s statutorily-authorized right to
4 conduct a health & safety inspection of the Otay Mesa Detention Center (the “Facility”).
5 Defendants are the operators of the Facility, a privately operated federal immigration
6 detention facility. Plaintiff is the local health authority with the responsibility to promote
7 health, improve quality of life, prevent disease, injury and disability, and protect against,
8 and respond to, health threats and disasters.¹ Pursuant to its duties, and based on
9 troubling reports of substandard conditions at the Facility, Plaintiff’s health officer
10 deemed it necessary and appropriate to inspect the Facility at this time, as Plaintiff is
11 undisputedly authorized to do.² Nonetheless, Defendants have inexplicably prevented
12 Plaintiff from inspecting the Facility based on dubious and ever-changing grounds.

13 Plaintiff’s Complaint states a straightforward claim for injunctive and declaratory
14 relief to enforce its State-authorized health and safety inspection rights, and Plaintiff is
15 likely to succeed on the merits. Plaintiff seeks a Court order to allow it to complete the
16 full inspection according to State Title 15 standards, which apply to all detention facilities
17 in the State, and to allow access to its full inspection team.

18 Because health and safety inspections relate to inherently serious and emergent
19 issues — including ongoing concerns about detainee health — unless relief is granted on
20 an expedited basis, Plaintiff will continue to suffer irreparable harm. Further, the balance
21 of equities and public interest tilt heavily in favor of granting injunctive relief on an
22 expedited preliminary and permanent basis. In fact, Defendants already authorized
23 Plaintiff’s full inspection team to enter the Facility to complete an inspection, only to
24 renege that authorization without any explanation once Plaintiff’s team arrived at the
25 Facility. Defendants’ late-breaking purported concerns about the scope of the inspection
26 are without merit and inhumane.

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28 ¹ <https://www.sandiegocounty.gov/content/sdc/hhsa/programs/phs.html>.
² Declaration of Sayone Thihalolipavan in Support of Plaintiff County of San
Diego’s Motion for Preliminary Injunction (“Thihalolipavan Decl.”), ¶¶3–6.

1 **II. BACKGROUND**

2 **A. Plaintiff has undisputed statutory rights to inspect the Facility**

3 Plaintiff is a political subdivision of the State of California. Cal. Const. art. XI, §
4 1(a); *United States v. Certain Parcels of Land in Riverside Cnty., Cal.*, 67 F. Supp. 780,
5 798 (S.D. Cal. 1946). The Ninth Circuit has repeatedly recognized the authority of a state
6 to protect the health and safety of those within its borders. *Geo Group, Inc. v. Inslee*, 151
7 F.4th 1107, 1117 (9th Cir. 2025). A state’s historic police powers include “ensur[ing] the
8 health and welfare of inmates and detainees in facilities within its borders.” *Geo Grp.,*
9 *Inc. v. Newsom*, 50 F.4th 745, 761 (9th Cir. 2022); citing *United States v. California*, 921
10 F.3d 865, 886 (9th Cir. 2019). Laws allowing state inspections of private immigration
11 detention facilities within California are not preempted by federal law. *Id.*

12 California Health and Safety Code section 101045 requires county health officers
13 to annually investigate health and sanitary conditions in county jails, publicly operated
14 detention facilities, and private work furlough facilities in their county. (Cal. Health &
15 Saf. Code § 101045(a).) Effective January 1, 2025, California amended Section 101045
16 to additionally authorize county health officers to investigate private detention
17 facilities—such as the Facility at issue here—as they determine necessary, and to require
18 investigations of such facilities when directed by the local legislative body, like the Board
19 of Supervisors, or other authority such as the sheriff or Board of State and Community
20 Corrections (“BSCC”). Cal. Health & Saf. Code § 101045.

21 Section 101045 requires that investigations of private detention facilities be
22 performed according to State standards, and requires that a report of the findings be
23 submitted. Specifically, the investigating officer shall determine if conditions “equal
24 minimum standards and requirements prescribed by the [BSCC] for the feeding, clothing,
25 and care of prisoners in local jails and detention facilities.” Cal. Health & Saf. Code §
26 101045(c). The BSCC outlines its minimum standards in Title 15 of the California Code
27 of Regulations (the “Title 15 Standards”). (Thihalolipavan Decl., ¶5.) Investigators must
28 document their determinations in reports that are submitted to the BSCC, the Facility

1 Warden, and to the local legislative body for review. Cal. Health & Saf. Code §
2 101045(a). Section 101045 does not impose the Title 15 Standards on the Facility—it is
3 purely a transparency statute. As such, this state law has already been upheld against
4 claims of federal preemption and intergovernmental immunity. *Geo Grp., Inc. v.*
5 *Newsom*, No. 2:24-CV-02924-DAD-CSK, 2025 WL 1285728, at *5, *8 n.7 (E.D. Cal.
6 May 2, 2025).

7 **B. Defendants interfered with Plaintiff’s inspection rights**

8 The Facility is a private detention facility as defined by Section 101045, located in
9 the County of San Diego. (Thihalolipavan Decl., ¶5.) Inspections are required in order to
10 report on the health and sanitary conditions in detention facilities. (*Id.*, ¶4.) Inspections by
11 independent parties are critical to ensure minimal quality standards regarding nutrition,
12 environmental conditions, and medical and mental health are not overlooked.
13 (*Id.*) Inspections provide an opportunity to ensure policies and procedures are written and
14 implemented in a manner to meet quality standards and, in addition to reviewing policies
15 and procedures, reviewing patient charts and talking to individuals in custody allows
16 for real-time assessment of barriers or challenges. (*Id.*) In other local facilities, Plaintiff’s
17 Public Health Officer inspections have identified minor and major opportunities for
18 improvement that have been addressed to better serve those who are detained. (*Id.*)

19 Based on his review and consideration of multiple reports of substandard
20 conditions at the Facility, the County Health Officer determined it is necessary to inspect
21 the Facility at this time. (*Id.*, ¶6.) On February 9, 2026, Plaintiff’s Public Health Officer
22 first notified Defendants of Plaintiff’s intent to perform an inspection of the Facility. (*Id.*,
23 ¶7, Ex. A.) The Facility’s identified point of contact for “all clearance-related matters”
24 identified the clearance process for anyone who needs to investigate the health and
25 sanitary conditions within the Facility. (*Id.*, Ex. B.) By February 18, 2026, Defendants
26 had granted clearance to enter the Facility to every member of Plaintiff’s inspection team,
27 and the agreed-upon health inspection date was scheduled for February 20, 2026. (*Id.*, ¶8,
28 Exs. C, D.)

1 However, on the date of the inspection, Defendants prevented the completion of
2 the inspection. First, conducting an inspection according to the required Title 15
3 Standards requires access to medical records, ability to inspect all areas (including the
4 general population and housing areas), ability to talk to individuals who are detained as
5 well as staff, and ability to review policies and procedures. (*Id.*, ¶5.) Despite advanced
6 notice that Plaintiff would require access to these foundational items, Defendants
7 arbitrarily prevented Plaintiff from performing these routine inspection requirements.
8 (*Id.*, ¶¶9–11.) Plaintiff was only able to make limited observations of the medical and
9 kitchen areas, and had limited discussions with staff, but this level of access was
10 insufficient to complete the Title 15 inspection report. (*Id.*, ¶11.) Second, on the
11 inspection date, Defendants barred two members of Plaintiff’s inspection team from
12 entering the Facility despite previously granting them clearance. (*Id.*, ¶12.) Defendants
13 offered no justification for their conduct.

14 **C. Plaintiff’s Complaint for Injunctive and Declaratory Relief**

15 On March 10, 2026, Plaintiff filed its Complaint for Injunctive and Declaratory
16 Relief to enforce its State-authorized health and safety inspection rights, after it became
17 clear that Defendants were not going to let Plaintiff complete its inspection. (*See*
18 *Thihalolipavan Decl.*, ¶¶13–17, Exs. F–H [detailing exhaustive-yet-unsuccessful attempts
19 to complete the authorized inspection].)

20 **III. ARGUMENT**

21 To obtain a preliminary injunction, the moving party must show that (1) it is
22 “likely to succeed on the merits,” (2) it is “likely to suffer irreparable harm in the absence
23 of preliminary relief,” (3) “the balance of equities tips in [its] favor,” and (4) “an
24 injunction is in the public interest.” *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848,
25 856 (9th Cir. 2017); citing *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).
26 A preliminary injunction may also be issued if a movant raises “serious questions going
27 to the merits,” shows a likelihood of irreparable harm, and the “balance of hardships ...
28 tips sharply towards” it. *Disney Enters., Inc.*, 869 F.3d at 856.

1 **A. Plaintiff is Likely to Succeed on the Merits**

2 Likelihood of success on the merits “is the most important” factor; if a movant
3 fails to meet this “threshold inquiry,” the court need not consider the other factors, in the
4 absence of “serious questions going to the merits.” *Id.* (internal citations omitted).
5 However, “once the moving party has carried its burden of showing a likelihood of
6 success on the merits, the burden shifts to the non-moving party to show a likelihood that
7 its affirmative defense will succeed.” *Id.*

8 Here, Plaintiff’s Complaint alleges claims for relief under the Administrative
9 Procedure Act and Declaratory Relief Act. As shown below, Plaintiff is entitled to relief
10 under any of its Complaint’s three claims for relief.

11 **1. Count 1 — Judicial review of agency action (or inaction)**

12 The Administrative Procedure Act (“APA”) “sets forth the procedures by which
13 federal agencies are accountable to the public and their actions subject to review by the
14 courts” and “requires agencies to engage in reasoned decisionmaking.” *Transportation*
15 *Div. of the Int’l Ass’n of Sheet Metal, Air, Rail, & Transportation Workers v. Fed. R.R.*
16 *Admin.*, 988 F.3d 1170, 1178 (9th Cir. 2021). The APA establishes a “basic presumption
17 of judicial review for one ‘suffering legal wrong because of agency action.’” *Dep’t of*
18 *Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 16–17 (2020). An
19 “agency action” includes the whole or a part of an agency rule, order, license, sanction,
20 relief, or the equivalent or denial thereof, or failure to act. 5 U.S.C. § 551(13).

21 At the outset, the APA requires a litigant to show that it is injured in fact by agency
22 action. *Corner Post, Inc. v. Bd. of Governors of Fed. Rsrv. Sys.*, 603 U.S. 799, 799
23 (2024). Here, because Plaintiff is the object of the agency action, injury is apparent. *City*
24 *of Culver City v. Fed. Aviation Admin*, No. 24-2477, 2026 WL 571214, at *4 (9th Cir.
25 Mar. 2, 2026). Plaintiff is clearly injured because Defendants’ actions are preventing
26 Plaintiff from conducting its statutorily-authorized health and safety inspection of the
27 Facility.

1 Defendants’ decision to prevent the inspection cannot survive judicial review. The
2 decision must be overturned as “arbitrary, capricious, an abuse of discretion, or otherwise
3 not in accordance with law.” 5 U.S.C. § 706(2)(A). Defendants concede that Plaintiff is
4 entitled to inspect the Facility. *See United States v. California*, 921 F.3d 865, 886 (9th
5 Cir. 2019) (“The United States does not dispute that California possesses the general
6 authority to ensure the health and welfare of inmates and detainees in facilities within its
7 borders.”). As a result, Defendants already cleared Plaintiff’s entire inspection team to
8 inspect the Facility. (Thihalolipavan Decl., ¶8.)

9 **a. Decision to limit scope of inspection**

10 Defendants’ decision to arbitrarily limit the scope of the inspection must be set
11 aside. On information and belief, Defendant CoreCivic’s contract to operate the Facility
12 requires it to comply with state law. *See United States v. California*, 921 F.3d 865, 886
13 (9th Cir. 2019) (“The contracts included in the record *require* that immigration facilities
14 conform to California’s authority”); *Nwauzor v. GEO Group, Inc.*, 127 F.4th 750, 762
15 (9th Cir. 2025) (GEO’s contract with ICE explicitly requires it to comply with” state
16 laws); *Geo Grp., Inc. v. Inslee*, 151 F.4th 1107, 1117 (9th Cir. 2025) (contract explicitly
17 orders GEO to comply with obligations imposed under state law, even when those
18 obligations are more demanding than those imposed under federal law).

19 Here, state law, Section 101045, explicitly dictates that the inspection be
20 performed according to the Title 15 Standards, which require certain foundational access
21 to the Facility. Cal. Health & Saf. Code § 101045(c); Thihalolipavan Decl., ¶¶5, 9.
22 Defendants’ decision to limit access to the Facility precluded Plaintiff from completing
23 its Title 15 inspection report is not in accordance with Section 101045. (Thihalolipavan
24 Decl., ¶¶10–11.)

25 In addition, Defendants’ decision is arbitrary and capricious because it is not
26 “reasonable and reasonably explained.” *Ohio v. EPA*, 603 U.S. 279, 292 (2024). A court
27 must “ensure, among other things, that the agency has offered ‘a satisfactory explanation
28 for its action[,] including a rational connection between the facts found and the choice

1 made.” *Id.* “[A]n agency cannot simply ignore ‘an important aspect of the problem’”
2 addressed by its action. *Id.* at 293.

3 Defendants made their decision despite the fact that detention facilities across the
4 state routinely grant access sufficient to complete Title 15 inspections. (Thihalolipavan
5 Decl., ¶¶3–5, 9–10.) Further, there are no known burdens or impacts to Defendants in
6 allowing Plaintiff to conduct the “full” Title 15 inspection. (*See infra* Section III.C;
7 Thihalolipavan Decl., ¶¶16, 18–20.) To the extent Defendants provided any rationale for
8 their decision, they showed that the decision was either a political one (made “by ICE
9 headquarters/Washington, D.C.”), or based on inapplicable purported concerns intended
10 to create impossible barriers to the inspection. (Thihalolipavan Decl., ¶¶10, 16–20, Ex.
11 G.)

12 **b. *Decision to deny access to two inspection team members***

13 Similarly, there can be no non-arbitrary rationale as to why Defendants refused to
14 allow two members of Plaintiff’s inspection team to enter the Facility on the day of the
15 inspection despite previously granting them clearance. This decision must also be
16 overturned under 5 U.S.C. § 706(2)(A).

17 Plaintiff’s Public Health Officer was entitled to identify the County’s inspection
18 team. The Public Health Officer is a County officer. Gov. Code § 24000(s). “Whenever a
19 power is granted to, or a duty is imposed upon, a public officer, the power may be
20 exercised or the duty may be performed by a deputy of the officer or by a person
21 authorized, pursuant to law, by the officer, unless this code expressly provides
22 otherwise.” Cal. Health & Saf. Code § 7. Furthermore, “Health officer” or “local health
23 officer” includes his or her designee. *Id.* at § 120115(k). Therefore, there is no known
24 basis for arbitrarily excluding two members of Plaintiff’s chosen inspection team at the
25 last minute, particularly given that Defendants had cleared the individuals to enter the
26 Facility. Instead, Defendants were obligated to defer to Plaintiff’s identified personnel.
27 *See Arizona v. United States*, 567 U.S. 387, 398 (2012) (“Federalism, central to the
28

1 constitutional design, adopts the principle that both the National and State Governments
2 have elements of sovereignty the other is bound to respect.”).

3 **2. Count 2 — Compelling agency action**

4 Defendants’ acts and omissions in responding to Plaintiff’s inspection request also
5 qualify as agency action that is unlawfully withheld or unreasonably delayed. 5 U.S.C. §
6 706(1). Plaintiff is likely to succeed on the merits because Defendants failed to take a
7 discrete agency action that they were required to take. *Norton v. S. Utah Wilderness All.*,
8 542 U.S. 55, 64 (2004).

9 Defendants failed to allow Plaintiff to complete its state-authorized inspection
10 rights. Defendants were required to take this action. This is because Section 101045 is not
11 federally preempted or subject to intergovernmental immunity. *Geo Grp., Inc. v.*
12 *Newsom*, 50 F.4th 745, 761 (9th Cir. 2022); *United States v. California*, 921 F.3d 865,
13 886 (9th Cir. 2019); *Geo Grp., Inc. v. Newsom*, No. 2:24-CV-02924-DAD-CSK, 2025
14 WL 1285728, at *5, *8 n.7 (E.D. Cal. May 2, 2025). Further, on information and belief,
15 Defendants’ operating agreement for the Facility required them to comply with state law
16 such as Section 101045. *See supra* Section III.A.1.a. Section 101045 authorizes the
17 County’s inspection and requires that it be performed according to Title 15 Standards.
18 Cal. Health & Saf. Code § 101045(c). By denying requisite access to the Facility,
19 Defendants obstructed state law and the performance of official duties.

20 Defendants should be compelled to cease and desist their obstruction of the state-
21 authorized inspection. California law prohibits the resistance, delay, or obstruction of any
22 public officer in the discharge or attempt to discharge any duty of his or her office or
23 employment. Cal. Pen. Code § 148(a)(1).

24 **3. Count 3 — Injunctive and Declaratory relief**

25 Plaintiff is also likely to succeed on Count 3 of its Complaint because Federal
26 courts have inherent equitable jurisdiction in actions properly before them. This Court
27 may issue an injunction in any case within its subject matter jurisdiction for which
28 equitable relief is proper under applicable substantive law. *Weinberger v. Romero-*

1 *Barcelo* (1982) 456 U.S. 305, 311–12; *United States v. Oakland Cannabis Buyers’ Coop.*
2 (2001) 532 U.S. 483, 495. Under the Declaratory Judgment Act, federal courts also have
3 substantial discretion in deciding whether to declare the rights of litigants. *Wilton v.*
4 *Seven Falls Co.*, 515 U.S. 277, 286 (1995). As shown herein, in the circumstances of this
5 case, an immediate actual controversy exists in that Defendants are actively preventing
6 Plaintiff from exercising its statutory rights to inspect the Facility. The only way to
7 resolve this matter is through a Court order enforcing Plaintiff’s rights under Section
8 101045.

9 **B. Plaintiff Will Suffer Irreparable Harm Without Preliminary Relief**

10 The continued denial of Plaintiff’s statutory right to inspect the Facility during the
11 potentially protracted trial court proceedings constitutes irreparable harm. *See Roman*
12 *Cath. Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020) (loss of rights, for even
13 minimal periods of time, can unquestionably constitute irreparable injury). Delayed relief
14 would allow potentially substandard conditions to persist, and possibly worsen, without
15 the benefit of an independent health and safety inspection. *See United States v. NCR*
16 *Corp.*, 688 F.3d 833, 842–43 (7th Cir. 2012) (delayed cleanup of contaminated river
17 constituted irreparable injury); *see also* Thihalolipavan Decl., ¶4 (noting importance of
18 inspections and the opportunities they provide for improvement). This harm is irreparable
19 because it cannot be adequately remedied by a damages award. *WPIX, Inc. v. ivi, Inc.*,
20 691 F.3d 275, 285 (2d Cir. 2012).

21 Here, Plaintiff has demonstrated irreparable harm. Plaintiff’s Public Health
22 Officer, who is responsible for enforcing statutes and ordinances relating to public health
23 and sanitary matters, determined that it is necessary to inspect the Facility.
24 (Thihalolipavan Decl., ¶¶3–6.) The determination was based on serious and credible
25 information. (*Id.* ¶6.) Further, Plaintiff’s limited inspection confirmed concerns with the
26 Facility; for example, Defendants could not confirm whether or not there have been any
27 deaths in the Facility. (*Id.* ¶11.)

1 In addition to the information obtained by the Public Health Officer, numerous
2 cases in the last year have raised serious questions about the health and sanitary
3 conditions at the Facility. *See e.g. Phan v. Noem*, 2025 WL 2677393 (S.D. Cal. 2025)
4 (declining to dismiss habeas corpus petition and setting expedited briefing on injunction
5 where habeas petitioner claimed he could not get access to all of his prescribed
6 medication or a guarantee that he would be transported to his scheduled heart surgery);
7 *Majid v. LaRose*, 2026 WL 181543 (S.D. Cal. 2026) (habeas petition based on among
8 other things a health crisis; habeas granted on other grounds and court did not reach
9 health claims); *Roe v. CoreCivic*, 2026 WL 218946 (S.D. Cal. 2026) (largely denying
10 motion to dismiss suit by plaintiff claiming to have been sexually assaulted by detention
11 center staff; plaintiff asserted others were similarly assaulted); *Giron Rodas v. Lyons*,
12 2025 WL 2300781 (S.D. Cal. 2025) (habeas petition alleging insufficient medical care
13 for petitioner’s colon cancer; case dismissed because it should have been brought as civil
14 rights action instead of habeas); *Markov v. Warden, Otay Mesa Detention Center*, 2026
15 WL 172973 (S.D. Cal. 2026) (habeas claims that warden did not provide adequate
16 medical care for lung condition dismissed because it should have been brought as civil
17 rights lawsuit instead of habeas); *Camarga-Alejo v. Mileto*, 2026 WL 234903 (S.D. Cal.
18 2026) (plaintiff alleged inadequate care for eye condition; case dismissed because causes
19 of action were under Constitution and CoreCivic was private actor).³

20 Whether or not these allegations are true, they require further investigation and
21 the fact that people have been making them increases the irreparable harm that would
22 occur if Defendants are allowed to continue denying the Public Health Officer and his
23 team entry to inspect the Facility’s health and safety conditions. Moreover, these
24 allegations also illustrate the public interest in ensuring that the Facility’s detainees’ basic
25 health and safety needs are being met.

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28 ³ In addition, the Facility has been reported as among the five facilities with
the most sexual assault complaints in the nation. *United States v. California*, Brief of
Amicus Curiae Immigrant Legal Resource Center, 2018 WL 5907111, at *25.)

1 Ensuring such basic needs are being met is also vital for the greater community.
2 “Family and friends, legal representatives, consular officials and others in the
3 community” are all allowed to visit detainees at the Facility.⁴ If detainees’ basic needs are
4 not being met, they may transmit diseases and infections to visitors, which could spread
5 to the greater community.

6 **C. The Balance of Equities Tips Heavily in Plaintiff’s Favor, and**
7 **An Injunction is in the Public Interest⁵**

8 It is neither equitable nor in the public interest to allow Defendants to obstruct and
9 prevent Plaintiff’s attempt to implement State law, especially when there are no adequate
10 remedies available. *See United States v. California*, 921 F.3d 865, 893–94 (9th Cir. 2019)
11 (preventing violation of Constitution [or statute] is equitable and serves public interest,
12 especially when there are no adequate remedies available). In fact, protecting the health
13 and safety of detainees, Facility staff, and the surrounding community is the overriding
14 equity.

15 Furthermore, Plaintiff is not aware of any harm to Defendants should preliminary
16 injunctive relief be granted. Section 101045 “inarguably does not impose standards and
17 requirements on plaintiff’s private immigration detention facilities.” *Geo Grp., Inc. v.*
18 *Newsom*, 2025 WL 1285728, at *8 (E.D. Cal. May 2, 2025); *see also* Thihalolipavan
19 Decl., ¶20 (Section 101045 does not compel the Facility to comply with State detention
20 standards). State inspection statutes such as Section 101045 “merely require[] access to
21 the facilities for inspections” and are therefore not a burden to Defendants and not subject
22 to immunity or preemption challenge. *Geo Grp., Inc. v. Newsom*, 2025 WL 1285728, at
23 *8, n.7; *United States v. California*, 921 F.3d at 884–86.

24 As a result, Defendants’ after-the-fact justification that “lack of funding” prevents
25 the health and safety inspection is without merit. (Thihalolipavan Decl., ¶¶16–20.)

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27 ⁴ See Facility Visitation and Contact Instructions available at
<https://www.corecivic.com/hubfs/Otay%20Mesa%20Detention%20Center.pdf>.

28 ⁵ Because the government is a party, the balance of equities and the public interest
are considered together. *California v. Azar*, 911 F.3d 558, 581 (9th Cir. 2018).

1 Plaintiff does not ask Defendants to conduct any inspection, and instead merely requests
2 access so that Plaintiff’s inspection personnel can conduct an inspection according to
3 Title 15 Standards, as is routinely done for all other detention facilities that Plaintiff
4 inspects. (Thihalolipavan Decl., ¶¶9, 11, 18.) The County inspection team conducts the
5 inspection, with minimal impact to the Facility operator. (*Id.*, ¶18) In any event, it does
6 not appear that Defendants actually suffer any meaningful “lack of funding” concerns.⁶

7 Finally, the public interest strongly favors preliminary injunctive relief. “The
8 public interest inquiry primarily addresses impact on non-parties rather than parties.”
9 *League of Wilderness Defs./Blue Mountains Biodiversity Project v. Connaughton*, 752
10 F.3d 755, 766 (9th Cir. 2014). It is undisputed that inspections are required in order to
11 report on the health and sanitary conditions inside facilities, and that inspections have
12 identified minor and major opportunities for improvement that have been addressed to
13 better serve those who are detained. (Thihalolipavan Decl., ¶4.) Given the ongoing
14 concerns about detainee health issues at the Facility (*Id.*, ¶¶ 6, 13), the strong public
15 interest in immediately enjoining Defendants from blocking the statutorily-authorized
16 inspection of their Facility is beyond dispute.

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26 ⁶ Prior to the scheduled inspection, Plaintiff’s Public Health Officer asked if a
27 potential government shutdown would impact the pending investigation clearance, and
28 Defendants never stated that it would. (Thihalolipavan Decl., ¶18.) In addition, federal
appropriations show that there is plenty of funding from last year’s One Big Beautiful
Bill specifically meant for immigration enforcement.
<https://appropriations.house.gov/news/press-releases/facing-reality-democrats-ignore-facts-heading-dhs-shutdown>.

1 **IV. CONCLUSION**

2 Based on the foregoing, Plaintiff respectfully requests that the Court grant a
3 preliminary injunction prohibiting Defendants from preventing Plaintiff's health and
4 safety inspection of the Facility according to applicable standards and utilizing identified
5 (and pre-cleared) inspection-team designees.

6 DATED: March 13, 2026

DAMON M. BROWN, County Counsel

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