



U.S. Immigration and Customs Enforcement

June 17, 2009

Privacy Guidance for Office of Public Affairs: Responding to H1N1 Questions

Questions about implementation of this guidance should be directed to the U.S. Immigration and Customs Enforcement's (ICE) Privacy Office (202-732-3300) or the Office of the Principal Legal Advisor (OPLA).

Applicability

This guidance applies only to the release of ICE information to the public in response to media inquiries. The guidance does not apply to ICE disclosures of information in the context of law enforcement, public health, management, congressional oversight, or other activities. For assistance with other disclosure questions, please contact the ICE Privacy Office (202-732-3300) or OPLA.

General Guidance

Unless the individual has provided specific written consent, ICE may not publicly release information that directly or indirectly identifies an employee, detainee, or other person who is known or suspected to be infected with H1N1. Examples of direct identification are disclosure of the person's name, a unique identifying number (e.g., A-Number), or unique job title (e.g., SAC in Los Angeles).

Indirect identification is the release of any combination of information that may be used to identify the person. Whether information will indirectly identify a person is often very circumstance-dependent and requires the exercise of careful judgment. When in doubt, OPA should disclose fewer details or less specific information to ensure the privacy of these individuals is protected. The following are examples of circumstances where indirect identification is possible:

- Release of the following information about a detainee infected with H1N1: the detention facility, and the detainee's nationality and age (or gender). While often this will not be enough to identify the detainee, in some circumstances it may if there are very few individuals who fit this description. For example, if the detainee is one of only a few individuals from a particular country in a facility, or if the detainee is of a very advanced or young age, release of this level of detail may allow the media to identify the individual using other sources of information (e.g., local arrest and detainer records). OPA should consider this possibility when deciding whether it is appropriate to release this level of detail, or whether release of more general information is necessary in the interest of privacy.
- Release of information about infected ICE personnel by job category/title and specific office/location may in some cases be enough to identify the persons who are ill. Small offices and job categories/titles held by few persons raise particular concerns. This detail could allow other ICE personnel to identify these individuals, as well as the media.

Information Authorized for Release

OPA may release statistical information about infection rates among employees or detainees generally, as long as the information is not detailed or specific enough to allow the indirect identification of these individuals.

- General statistical information about confirmed or suspected cases among employees or detainees, including number of suspected cases who were later determined to not be infected
 - Example: ICE can confirm that, among all DRO employees or detainees, a specific number are suspected to have H1N1.

- General statistical information by region, job category, or detention location
 - For any detention facility or job category that contains so few persons that the identities of individuals might be determined, general statistical data should not be released.
 - Example: ICE can confirm that a specific number of detention officers are suspected to have H1N1.

- If requests are for data about a particular location (e.g., an ICE field office or detention facility) or other narrow category, statistics may only be disclosed if the release of that data will not allow the public or other persons to determine the identities of the affected persons.