

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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April 7, 2020

The Honorable Chad Wolf
Acting Secretary
Department of Homeland Security
245 Murray Lane, S.W.
Washington, D.C. 20528

Mr. Matthew T. Albence
Acting Director
Immigration and Customs Enforcement
Department of Homeland Security
500 12th Street, S.W.
Washington, D.C. 20536

Mr. Mark Morgan
Acting Commissioner
Customs and Border Protection
Department of Homeland Security
1300 Pennsylvania Avenue, N.W.
Washington, D.C. 20229

Dear Acting Secretary Wolf, Acting Director Albence, and Acting Commissioner Morgan:

As the coronavirus crisis continues to worsen and take thousands of lives across our country, we write to follow up on our March 11, 2020, letter to Acting Secretary Wolf requesting information about your plans to protect detained immigrants in Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) detention facilities. In that letter, we requested, among other things, your plans on how the Department of Homeland Security will address overcrowding in detention facilities in order to minimize the spread of the contagion and free up sufficient space for effective quarantining.

Unfortunately, the Department has not supplied the full information requested in our previous letter. Though Department staff provided a briefing to Committee staff on March 20, 2020, that briefing and recent developments have exacerbated our concerns for the safety and well-being of detainees, particularly given the high risk of outbreak of this virus in your facilities.

As of today, nineteen detainees and seven facility staff have tested positive for coronavirus at six ICE facilities across the country. ICE has stated that it has stopped arresting immigrants who pose no public safety threat in order to avoid further filling these detention facilities.¹

The Department must take swift action to decrease the detainee population to prevent further spread of this disease. In light of recent reports of detainees and staff testing positive at multiple detention centers, the high risk of further outbreaks in the near future, and the lack of adequate medical staff and equipment, we call on you to immediately release non-violent detainees, prioritizing those who are at higher risk for complications from coronavirus. Releasing these non-violent detainees will prevent the unnecessary infection, sickness, and death of the men and women who work in these facilities and those who are detained.

More than 3,000 doctors have called for the release of detainees who do not pose an immediate risk to public safety, noting the dangerous conditions in facilities where “detainees live in close quarters, with subpar infection control measures in place, and whose population represents some of the most vulnerable.”²

Former ICE Director John Sandweg also recommended releasing detainees, stressing that an outbreak in a detention facility poses a severe danger both to detainees and the communities where detention facilities are located. He warned that an outbreak could expose the hundreds of people working in ICE facilities to the virus, stating: “Once exposed, many of them will unknowingly take the virus home to their family and community.”³

If an outbreak spreads from a facility into the community, it will exacerbate the strain on local hospitals since many detention centers are in rural areas with very little medical infrastructure.⁴ ICE officials conceded during their briefing for Committee staff that they have

¹ Immigration and Customs Enforcement, *ICE Guidance on COVID-19* (online at www.ice.gov/coronavirus).

² *Thousands of Doctors Demand ICE Release Detainees to Stop a COVID-19 Disaster*, Vice (Mar. 18, 2020) (online at www.vice.com/en_us/article/4agp4w/thousands-of-doctors-demand-ice-release-detainees-to-stop-a-covid-19-disaster); *Open Letter to ICE from Medical Professionals Urging the Release of Individuals in Immigration Detention Given the Risk of COVID-19* (online at https://docs.google.com/forms/d/e/1FAIpQLScB1YLk-MHzdJ2ahcxx25NRRqEnlRTk_xA6Q6cJTfZXUQV-Dg/viewform?fbclid=IwAR02eh8VMxG4iqv9p6JdD9OejZMVU_npHxxVJ_rQTwmxSbr-L5s7qWKvdQ0); *We Must Release Prisoners to Lessen the Spread of Coronavirus*, Washington Post (Mar. 17, 2020) (online at www.washingtonpost.com/opinions/2020/03/17/we-must-release-prisoners-lessen-spread-coronavirus/).

³ *I Used to Run ICE. We Need to Release the Nonviolent Detainees*, Atlantic (Mar. 22, 2020) (online at www.theatlantic.com/ideas/archive/2020/03/release-ice-detainees/608536/).

⁴ *Trump Administration Sued Over Poor Medical Care in Immigration Centers*, Politico (Aug. 19, 2019) (online at www.politico.com/story/2019/08/19/trump-administration-sued-medical-care-immigration-centers-1467605).

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no contingency plan for coronavirus treatment if local hospitals become overwhelmed and cannot treat detainees.

Even the little information provided by the Department about its plans seems to directly contradict guidance from the Centers for Disease Control and Prevention (CDC) on preventing the spread of coronavirus in detention facilities. ICE officials have indicated that if detainees have contact with someone who has tested positive, they will be “cohorted” together in isolation.⁵ The CDC specifically warned that such cohorting should be a last resort because it “could transmit COVID-19 from those who are infected to those who are uninfected.”⁶

Finally, although ICE officials informed Committee staff that they are “scrubbing” lists of detainees to determine whether any can be released, ICE has not produced to the Committee any criteria or information about which immigrants will be released or when that will happen. To the contrary, ICE has continued to challenge lawsuits seeking to free nonviolent immigrants from dangerous detention facilities.⁷

When we wrote to you on March 11, 2020, the United States had nearly 1,200 confirmed cases of coronavirus and 38 deaths.⁸ On March 25, 2020, Committee staff requested a Member briefing. That day, the United States had approximately 65,000 confirmed cases and 928 deaths.⁹ Today, the United States has nearly 370,000 cases and more than 11,000 deaths.¹⁰ The Department cannot continue to drag its feet in response to this crisis. Now is the time to prevent an exponential increase in cases and deaths.

For these reasons, we request that Acting Director Albence and Acting Commissioner Morgan provide Members of our Committee with a video briefing on this issue by April 14, 2020. We also request that the Department provide the information requested in our March 11, 2020, letter and during the March 20, 2020, staff briefing no later than April 10, 2020.

⁵ *Nearly 20 ICE Workers Have Tested Positive for COVID-19 as Agency Sees First Case Among Detainees*, Newsweek (Mar. 25, 2020) (online at www.newsweek.com/nearly-20-ice-workers-have-tested-positive-covid-19-agency-sees-first-case-among-detainees-1494128).

⁶ Centers for Disease Control and Prevention, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities* (Mar. 23, 2020) (online at www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html#Cohorting).

⁷ *Judge Orders 11 At-Risk ICE Detainees Released Over Coronavirus Fears*, The Hill (Mar. 31, 2020) (online at <https://thehill.com/latino/490387-judge-orders-11-infirm-ice-detainees-released-over-coronavirus-fears>).

⁸ *March 11 Coronavirus News*, CNN (Mar. 11, 2020) (online at www.cnn.com/world/live-news/coronavirus-outbreak-03-11-20-intl-hnk/index.html).

⁹ *March 25 Coronavirus News*, CNN (Mar. 25, 2020) (online at www.cnn.com/world/live-news/coronavirus-outbreak-03-25-20-intl-hnk/index.html).

¹⁰ *More Than 11,000 People Have Died from Coronavirus in the US*, CNN (Apr. 7, 2020) (online at www.cnn.com/world/live-news/coronavirus-pandemic-04-07-20/index.html).

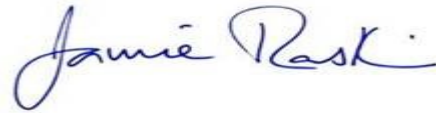
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The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” and “any time” under House Rule X. If you have any questions regarding this request, please contact Committee staff at (202)-225-5051.

Sincerely,



Carolyn Maloney
Chairwoman
Committee on Oversight and Reform



Jamie Raskin
Chairman
Subcommittee on Civil Rights and Civil
Liberties

cc: The Honorable Chip Roy, Ranking Member
Subcommittee on Civil Rights and Civil Liberties