

March 23, 2020

The Honorable Chad Wolf
Acting Secretary
U.S. Department of Homeland Security
Nebraska Avenue Complex
3801 Nebraska Avenue NW
Washington, DC 20528

Dear Acting Secretary Wolf:

We write out of concern for immigrant communities and the general public during the ongoing public health crisis associated with COVID-19. In order to protect the public health of all people, we must ensure that everyone, regardless of their immigration status, is able to comply with local and federal public health agency recommendations and have access to care without fear of enforcement action, retribution, or increased risk.

In times of a public health crisis, it is imperative that we protect the most vulnerable and remove barriers to care for all, including fears of enforcement that prevent immigrant communities from seeking care. For people detained in detention facilities, they are completely dependent on the government for their conditions and medical care and we must ensure we are able to keep them safe. For all immigrants, we should ensure they do not prioritize fulfilling their government mandated, court-related requirements over following public health recommendations to stay home or practice social distancing.

In light of these concerns, we ask the Department to take swift and immediate action on the following requests to preserve public health:

- 1. Place a moratorium on immigration arrests for people who pose no significant public safety risk to further reduce the detention population.** DHS should also issue a formal public statement to affirm that ICE nor CBP will not perform any enforcement action at hospitals, health providers, public health partners, or social service agencies.
- 2. Notify all parties that may have been exposed to any individual who has been infected with coronavirus through contact with any DHS employee or exposure in any DHS facility.** In particular, we encourage you to notify any person who was exposed to the USCIS Seattle Field Office and Elizabeth Detention Center employees who tested positive for COVID-19. In regards to the USCIS Field Office employee, we understand that this employee was exhibiting symptoms but attended work for three days before the office was closed. At the time of writing, there has been no notice to anyone outside of DHS who may have been exposed to either employee.

3. **Immediately heed the advice of public health experts¹ and release as many immigrants as possible from detention.** Detained individuals should be released on reasonable bond, through parole, or through alternatives to detention programs in order to decrease the overall population, reduce the number of people in overcrowded facilities, and mitigate further spread of the virus.
4. **Prioritize releasing those over 50 and those with underlying health conditions and are particularly vulnerable to the virus, so as to avoid a public health catastrophe for those who are detained and the broader community.** The Centers for Disease Control and Prevention recommends these populations take extra care to stay home, avoid crowds, and limit contact since they are at higher risk of getting very sick from COVID-19.²
5. **Take immediate steps to prevent a COVID-19 outbreak in immigration detention facilities,** where immigrants are held in extremely close quarters contrary to public health guidelines. Any outbreak puts the health of the entire detained population at risk and could easily spread to the outside community due to guards and detention employees leaving the facility after their shifts. Such an outbreak could put extreme strain on local health care facilities, especially in rural areas where so many detention centers are located. Public health experts have called for down-sizing of jail and prison facilities, and localities across the country have begun this practice.³
 - a. Consult with public health and medical professionals, including local public health agencies, to implement best practices for managing the spread of infection within populations in DHS custody, both in Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP), while maintaining access to confidential legal counsel, visitation, and upholding human rights;
 - b. For those remaining in detention, DHS should:
 - i. Ensure that everyone in DHS custody receives flu vaccines using an opt-out modality;
 - ii. Screen staff reporting to work to check for fever, cough, shortness of breath, recent travel to a high-risk country, or exposure to someone symptomatic or under surveillance for COVID-19. Staff with at least two of the aforementioned risk factors should be sent home;
 - iii. Perform routine environmental cleaning of all frequently touched surfaces;

¹ Katherine Shoichet, *CNN*, “Doctors warn of ‘tinderbox scenario’ if coronavirus spreads in ICE detention,” Mar. 20, 2020, <https://www.cnn.com/2020/03/20/health/doctors-ice-detention-coronavirus/index.html>.

² Centers for Disease Control and Prevention, *If You Are At Higher Risk (Page last reviewed Mar. 12, 2020)* <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html>

³ Marc F. Stern, MD, MPH, *Washington State Jails Coronavirus Management Suggestions in 3 “Buckets,”* Washington Association of Sheriffs and Police Chiefs (Mar. 5, 2020) <https://waspc.memberclicks.net/assets/docs/suggestions%20for%20jails%20%203.5.20.pdf> Salvador Hernandez, *Los Angeles is Releasing Inmates Early and Arresting Fewer People Over Fears of Coronavirus in Jails*, BuzzFeed News (Mar. 16, 2020) <https://www.buzzfeednews.com/article/salvadorhernandez/los-angeles-coronavirus-inmates-early-release>

- iv. Remove barriers to good infection control for individuals in custody including by providing access to soap and paper towels, cleaning supplies to allow detained individuals to clean their quarters regularly, as well as allowing individuals to seek medical attention when requested, and stopping overnight security checks to encourage sleep and wellness;
- v. Waive all costs associated with soap or other hygiene products;
- vi. Ensure medical facilities are prepared with fully-staffed medical professionals, personal protective equipment, soap, hand sanitizer, and cleaning supplies;
- vii. Ensure any individual who must be quarantined is quarantined at a hospital or medical facility, rather than inside the detention center;
- viii. Waive fees or charges for phone or video calls to family and friends outside detention;
- ix. Ensure continued access to legal representation, maintaining in-person contact as much as possible and allow for flexible deployment of telephonic and video access for attorney visits, know your rights, and legal orientation programming.

6. Issue formal, proactive and explicit public communication to ensure immigration deadlines and practices are excused or relaxed for the period that a public health emergency is in effect in a particular locality or state, including:

- a. Work authorization or non-immigrant status documents (such as DACA and TPS) for people who cannot renew. DHS should automatically renew such status or work authorization for the same time period as the individual's prior status or work authorization;
- b. In-person ICE check-ins, including in-person check-ins for individuals enrolled in alternative to detention programming such as ISAP.
- c. DHS should not seek in absentia orders when individuals do not appear for an immigration court hearing during and in the months following the worst of the pandemic, and should instead move to continue.
- d. Relax deadlines for all petitions and applications including but not limited to:
 - i. One-year deadline for asylum applications;
 - ii. Requirements for filing I-751 (petition to remove conditions of residence);
 - iii. Responding to USCIS requests for evidence (RFEs), as well as Notice of Intent to Deny (NOIDs) and Notice of Intent to Reject (NOIRs);
 - iv. Adjustment, regulatory, and administrative deadlines including but not limited to:
 - 1. Deadlines for adjustment applications for U and T visa holders
 - 2. Deadlines to file I-290Bs (Motions before Administrative Appeals Office)
 - 3. Widower petitions
 - 4. VAWA self-petitions
- v. Tolling of age-out situations including but not limited to:
 - 1. Family-based petitions

2. Special Immigrant Juvenile Status
 3. Violence Against Women Act (VAWA) self-petitions for children
 4. U-Visa applications for derivative children
 5. Asylum applications for derivative children;
- e. Protect individuals from tolling any accrual of unlawful presence during the public health emergency;
 - f. Delay all interviews including but not limited to:
 - i. Interviews for I-751 petitions;
 - ii. Home visits in family-based application for adjustment case
 - g. Consider flexibility in school reporting requirements and unemployment limits for international students and scholars including but not limited to:
 - i. Optional practical training (OPT) filing window and deadline;
 - ii. Consider students taking full course of study online due to a school's COVID-19 adaptation including but not limited to:
 1. Allow students to apply for OPT while they are physically present outside the United States;
 2. Allow consideration for a student, scholar, or dependent to have continuously maintained their F, M, or J status for purposes of future eligibility;
2. **Uphold our humanitarian commitment to asylum seekers presenting themselves at the border by instituting additional health screenings for asylum seekers, including individuals currently subject to the Migrant Protection Protocol.** CBP should expeditiously work to parole asylum seekers into the country where they will be able to remain in the community until their next court hearing, with the ability to practice social distancing and seek access to medical care if needed. Allow passage through CBP checkpoints within 100 miles of the border to ensure undocumented individuals living in border communities are not segregated from crucial medical care in the interior.
 3. **Reconsider the implementation of the *Inadmissibility on Public Charge Grounds* final rule.** While USCIS has taken action on this already, we believe a more explicit statement must be issued that the Rule is stayed pending successful containment of COVID-19, and that clarifies that enrollment in Medicaid during the COVID-19 crisis, and the use of Medicaid services for any purpose, as well as SNAP and housing related assistance will not be deemed a “public benefit” under the Public Charge Rule throughout the duration of the pandemic. the statement is not sufficient. As individuals do not only enroll in Medicaid for specific symptoms, there continues to be confusion and fear.

COVID-19 does not discriminate based on nationality, citizenship status, or any other characteristic, and our federal agencies must respond accordingly. We thank you for your prompt attention to these matters, and request a response as to the status of these requests by March 31, 2019. The health and safety of our entire nation will suffer if we fail to protect every person in the country.

Sincerely,



PRAMILA JAYAPAL
Member of Congress



AYANNA PRESSLEY
Member of Congress



JOAQUIN CASTRO
Member of Congress



JESÚS G. "CHUY" GARCÍA
Member of Congress



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