

**Congress of the United States**  
Washington, DC 20515

Via Email:

March 27, 2020

The Honorable Mark A. Morgan  
Acting Commissioner  
U.S. Customs and Border Protection  
1300 Pennsylvania Avenue, N.W.  
Washington, D.C. 20229

CC: Peter Ladowicz  
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Washington, DC 20229  
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Dear Acting Commissioner Morgan:

We hereby request more information regarding U.S. Customs and Border Protection's (CBP) recent decision to enact a travel restriction policy in response to the global pandemic of COVID-19, beginning March 20, 2020 until April 20, 2020.<sup>1</sup> We are aware that measures are needed to manage the outbreak of COVID-19 at the U.S. ports of entry. However, we are extremely concerned that the policy of limiting entry at the border to only "essential travel" may violate individual due process rights and may overlook the urgent needs of individuals who are vulnerable and are seeking refuge. These vulnerable populations which hereinafter is defined to include: unaccompanied minors; individuals who are survivors of human trafficking, face imminent harm, or have a credible fear due to their protected class; and others who are pregnant, elderly or have serious medical conditions.

We respectfully request answers to the following questions concerning the current status of your agency's operations while implementing of the new interim final rule issued by the Centers for Disease Control.<sup>2</sup> Please provide a response by April 2, 2020:

1. According to the announcement, "CBP will no longer detain [undocumented] immigrants in our holding facilities and will immediately return [them] to the country they entered from – Canada or Mexico. Where such a return is not possible, CBP will return [them] to their country of origin."<sup>3</sup>
  - a. Is there an exception for vulnerable populations? If so, what is your agency's protocol and practice of identifying these vulnerable populations and what will

<sup>1</sup> <https://www.dhs.gov/news/2020/03/23/fact-sheet-dhs-measures-border-limit-further-spread-coronavirus>

<sup>2</sup> <https://s3.amazonaws.com/public-inspection.federalregister.gov/2020-06238.pdf>.

<sup>3</sup> Ibid.

happen to them? Are those expressing fear of returning to their country of origin or a contiguous country given a credible fear or reasonable fear screening and interview? Will they be transferred elsewhere? If so, where will they be transferred and what protocols are in place to ensure that those being transferred are neither exposed nor exposing others to COVID-19? If no exception for vulnerable populations exists, why not?

- b. Have CBP agents and officers been given guidance on when to permit entry due to humanitarian reasons?
- c. From March 21, 2020 to the present, how many individuals who expressed a fear of returning to their country of origin or a contiguous country have been denied entry at a U.S. port of entry and between ports of entry? Please provide figures for each port of entry. Were any of those denied entry part of a vulnerable group? If so, please provide a breakdown by vulnerable population with an exact number per group.
- d. From March 21, 2020 to the present, how many individuals were and are currently detained in a CBP facility? Of these individuals, how many are part of a vulnerable population? Please provide a breakdown by vulnerable population with an exact number per group.
- e. In response to these travel restrictions, what is your agency's protocol and practice regarding individuals who are currently held in CBP facilities? What is the average duration of their stay in your agency's custody? Is CBP continuing to transfer detained individuals to Immigration and Customs Enforcement detention centers?
- f. What is your agency's protocol and practice for monitoring and preventing the outbreak of COVID-19 at CBP holding facilities?
- g. Can individuals held at CBP facilities readily access: social distancing, alcohol-based hand sanitizer, soap and hot water, and face masks?
- h. What is your agency's protocol and practice with other countries to coordinate the safe return of individuals to the country of their last point of entry, or their repatriation to their country of origin? What practices do you have in place to ensure that people are not being returned to imminent harm?
- i. What is your agency's protocol and practice in determining that an individual will be returned to their last point of entry, such as Canada or Mexico?
- j. What is your agency's protocol and practice in determining that an individual will be returned to their country of origin?
- k. What is your agency's protocol and practice if an individual's country of origin does not accept them?
- l. How does DHS treat an individual who is denied entry into the U.S. under this policy and is neither accepted by the country they entered from nor accepted by their country of origin? How does your agency ensure that this individual is protected from harm/violence?
- m. What is your agency's protocol or practice for testing individuals for COVID-19 as they enter or exit U.S. ports of entry?

- n. What is your protocol and practice when an individual at a port of entry is diagnosed with COVID-19?
  - o. Does your agency provide medical care or assistance for individuals displaying COVID-19 symptoms? If medical care is provided, describe the type of care. At what type of facility is this medical care given and how long is the duration of the stay?
2. According to your agency’s announcement, the recent policy change “limit[s] all non-essential travel” across the nation’s borders with Canada and Mexico.<sup>4</sup> The announcement states that “‘Non-essential’ travel includes travel that is considered tourism or recreational in nature.”
- a. Please confirm that “essential travel” includes allowing the entry and exit of legal counsel who need to travel to Mexico or Canada to represent individuals not allowed entry into the United States.

Your answers to these questions are critical to ensuring that human life and due process are protected as our nation and the world address a pressing public health crisis. Protocols and procedures must be put in place to release vulnerable populations and individuals who pose no threat to public safety on their own recognizance with a notice to appear. Protocols and procedures must also be put in place to swiftly and safely process those coming to our borders seeking refuge and protection, and to ensure that their due process rights are protected.

The coronavirus presents a gargantuan challenge, and we must ensure that all resources are directed appropriately to handle the pandemic and its resolution. Thank you in advance for your attention to this matter and we look forward to your response. Given the rapidly evolving nature of this crisis, we request your response no later than April 2, 2020. We also request a briefing with our staff by the same date.

Sincerely,



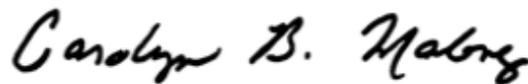
Rep. Alexandria Ocasio-Cortez (NY-14)



Rep. Nydia M. Velázquez (NY-07)



Rep. Jerrold Nadler (NY-10)



Rep. Carolyn Maloney (NY-12)



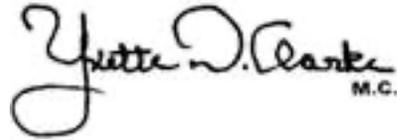
Rep. José E. Serrano (NY-15)



Rep. Adriano Espaillat (NY-13)



Rep. Eliot L. Engel (NY-16)



Rep. Yvette D. Clarke (NY-9)



Rep. Hakeem Jeffries (NY-8)



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