

Congress of the United States

Washington, DC 20515

March 18, 2020

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

The Honorable Matthew T. Albence
Deputy Director and Senior Official
Performing the Duties of the Director
Immigration and Customs Enforcement
500 12th Street SW, Mail Stop 5902
Washington, DC 20536

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

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

We are writing to express our concerns over the Coronavirus pandemic. As you know, the Centers for Disease Control and Prevention (CDC) advised the American people to prepare for the possibility of a COVID-19 outbreak in their communities.¹ In response to these concerns, both New York State and New York City have declared states of emergency.² In fact, New York City's Mayor, Bill DeBlasio, has indicated that the city could possibly see an uptick of coronavirus related cases, possibly 1,000 by the end of this week.^{3,4} While the City does not intend to see a total shutdown of operations, preventive measures are being implemented to halt the spread of the virus. According to the New York Times, there are over 7,000 positive COVID-19 lab tests reported across the United States as of this letter's writing.⁵ The number of COVID-19 cases will likely continue to increase, with New York State disproportionately impacted with approximately a fourth of the nation's cases.⁶

¹ Coronavirus Disease 2019 (COVID-19). Centers for Disease Control and Prevention. <https://www.cdc.gov/coronavirus/2019-ncov/community/index.html>

² De Blasio Declares State of Emergency in N.Y.C., and Large Gatherings Are Banned. The New York Times. March 13, 2020. <https://www.nytimes.com/2020/03/12/nyregion/coronavirus-new-york-update.html#link-408c01d7>

³ *Id.*

⁴ Shant Shahrigan. New York City's coronavirus toll rises to 10 deaths, 923 confirmed cases: Mayor de Blasio. New York Daily News. March 17, 2020. <https://www.nydailynews.com/coronavirus/ny-coronavirus-new-york-city-bill-de-blasio-20200318-jlfm5hwyl5ahrow53pmaobf4ja-story.html>

⁵ The New York Times. Coronavirus Map: Tracking the Global Outbreak. March 18, 2020. <https://www.nytimes.com/interactive/2020/world/coronavirus-maps.html#us>

⁶ Brian M. Rosenthal and Joseph Goldstein. N.Y. May Need 18,000 Ventilators Very Soon. It Is Far Short of That. March 17, 2020. The New York Times. <https://www.nytimes.com/2020/03/17/nyregion/ny-coronavirus-ventilators.html>

While the City and State of New York are both taking proactive measures to prevent exposure to the virus, it is unclear how your agency will prevent the proliferation of the virus within its facilities and general operations at large. **This is gravely concerning because ICE has identified four detainees who met the criteria for coronavirus testing, albeit yielding negative results.**^{7,8} Since that report, an employee at a private facility contracted by ICE is now being tested for the virus.⁹ Yesterday, ten detainees at a detention facility were isolated because of possible exposure.¹⁰ The spread of any illness, including the coronavirus, is likely at your agency's detention facilities because of crowded conditions and limited access to medical care.¹¹ These conditions can get significantly worse if there are any running water interruptions.¹² The aforementioned tests are a warning sign of future events that may occur, especially as the daily detainee population has increased over 40 percent.¹³ It is also unclear how your agencies are procuring the necessary test kits and germ-killing supplies needed to reduce the proliferation of the virus. There must be critical supplies to ensure the prevention of its spread.

It is our assessment that, in the absence of an assurance of your agencies' preparedness for the coronavirus, it is necessary to halt all enforcement operations. An enforcement moratorium would allow both officers and immigrant families to seek medical attention without fear. Imposing an enforcement moratorium is also appropriate and consistent with the historical use of the Department's powers. Enforcement was reduced during the Flint Water Crisis¹⁴, and during Hurricanes Harvey and Maria.¹⁵

Given the extraordinary hardships that the coronavirus is creating for immigrants, detainees, staff and judges, we request that your agencies immediately suspend all immigration detention, enforcement efforts, and removals. This includes the use of the BORTAC unit in urban areas. We laud ICE for cancelling all check-ins for individuals in New York through April 14 and ask that that cancellations continue as appropriate.

⁷ Abigail Hauslohner, Nick Miroff and Matt Zapotosky. Coronavirus could pose serious concern in ICE jails, immigration courts. The Washington Post. https://www.washingtonpost.com/immigration/coronavirus-immigration-jails/2020/03/12/44b5e56a-646a-11ea-845d-e35b0234b136_story.html

⁸ Abigail Hauslohner, Nick Miroff and Matt Zapotosky. Coronavirus could pose serious concern in ICE jails, immigration courts. The Washington Post. https://www.washingtonpost.com/immigration/coronavirus-immigration-jails/2020/03/12/44b5e56a-646a-11ea-845d-e35b0234b136_story.html

⁹ Monsy Alvarado. ICE detention center employee in NJ being tested for coronavirus. March 16, 2020. <https://www.northjersey.com/story/news/new-jersey/2020/03/16/ice-detention-facility-employee-gets-tested-coronavirus-elizabeth-nj/5058521002/>

¹⁰ Sam Tabachnik. Ten detainees at Aurora's ICE detention facility isolated for possible exposure to coronavirus. Denver Post. March 17, 2020. <https://www.denverpost.com/2020/03/17/coronavirus-ice-detention-geo-group-aurora-colorado/>

¹¹ Amanda Holpuch. Coronavirus inevitable in prison-like US immigration centers, doctors say. The Guardian. <https://www.theguardian.com/world/2020/mar/11/coronavirus-outbreak-us-immigration-centers>

¹² *Id.*

¹³ Rebecca Klar. Oversight Democrats question DHS on plan for possible coronavirus outbreak in detention facilities. March 11, 2020. The Hill. <https://thehill.com/homenews/house/487116-house-oversight-committee-questions-dhs-on-coronavirus-plan>

¹⁴ Department of Homeland Security. Public Notice on the Current Water Emergency in Flint, Mich.. February 24, 2016. <https://www.dhs.gov/news/2016/02/24/public-notice-current-water-emergency-flint-mich>

¹⁵ Department of Homeland Security. DHS Statement Regarding Safety and Enforcement During Hurricane Irma. September 6, 2017. <https://www.dhs.gov/news/2017/09/06/dhs-statement-regarding-safety-and-enforcement-during-hurricane-irma>

We also call on ICE to immediately release all immigrants in ICE detention, beginning with all vulnerable populations. This includes detainees with underlying health conditions, seniors (60 years or older), pregnant detainees and those showing any COVID-19 symptoms.

Since your agencies have provided no clear action plan to ensure the health of immigrant detainees allegedly in violation of the immigration laws, we have concluded that the Department, including both CBP and ICE, are unable to handle its mission under the current public health crisis. Exposing people in the current environment to enforcement and detention which will interfere with public-health efforts and trust in government is counterproductive and does not advance the national interest. The United States needs to focus its efforts on preventing any further dissemination of the coronavirus. Eliminating enforcement operations and decreasing the population of individuals in custody will be critical in ensuring the health of both officers and immigrants.

Given the above, we ask the following questions, in addition to those posed by our colleagues Rep. Meng on March 11th and by Rep. Nadler on Friday, March 13th regarding detention policies:

1. As of the date of this letter, how many suspected/confirmed cases of coronavirus among detainees and, separately, detention facility staff has the Department received? As part of this figure, please include the number of suspected/confirmed cases from privately contracted facilities and local jails, including those that participate in 287(g) agreements.
2. Will your agency commit to providing a resource page or online database to account for confirmed cases? Will you commit to making these data public?
3. Has your agency reviewed Continuity of Operations Plans (COOP) for all facilities, including those of privately contracted facilities and local jails? What deficiencies or shortcomings has your agency identified when examining their compatibility with managing a pandemic emergency? If such review has not been completed, when will it be completed?
4. What is the current doctor-to-detainee ratio? Has this ratio changed since the beginning of the pandemic? If not, how is the Department ensuring that detainees are provided adequate care? What assumptions is the Department taking into consideration when determining whether it needs to deploy more medical professionals at detention facilities?
5. What contingency plan is being made available to detainees and officers in case of a lack of water or soap (i.e. no running water) to prevent the spread of the virus. Will the Department consider the use of alcohol-based hand sanitizer if extenuating or extraordinary circumstances occur?
6. What safeguards are being put in place to ensure that all facilities, including those that are operated by private corporations, are providing full access to hand washing stations and other medical care immediately upon request?
7. What is the protocol in the event a detainee tests positive?
8. Will ICE commit to not performing any immigration enforcement at or around hospitals or other health facilities, which are deemed as sensitive locations?
9. Will ICE suspend interior immigration enforcement during the COVID-19 outbreak to temper down fear of immigrants being detained or deported while they are out in their communities practicing due diligence to care for themselves and their loved ones, and therefore limiting the further spread of this virus?

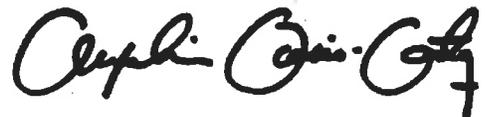
10. Will ICE announce a cessation of all enforcement operations? If an announcement is not expected, will the agency limit its enforcement to individuals with serious crimes? If not, what is the Department's justification? Will the Department commit to reviewing any decision if conditions warrant or pose significant risk of virus proliferation to employees and detainees?
11. Will ICE stop transporting detainees to different facilities, particularly to areas that have been heavily impacted by the virus? If not, what's the rationale for not doing in a time when the Pentagon has halted all domestic travel for the military?
12. If the virus continues to spread and threatens the wellbeing of detainees, will the agency consider the humanitarian release of all ICE detainees? What is the justification for the Department's unwillingness to release individuals who pose no threat to the community? Will the agency at a minimum commit to immediately conducting new custody determinations for all detainees in a way that maximizes the total number of detainees released and removed from unhealthy conditions?
13. Will the Department and its agencies coordinate stipulation to relief and bond, when warranted, with, whether through the Enforcement and Removal Operations (ERO) and/or the Office of the Chief Counsel (OCC)?
14. Will ICE suspend all enforcement action, including BORTAC operation, at hospitals, clinics, community health centers, and other temporary health care facilities given the public health strains the coronavirus is placing on communities?
15. How are facilities, including those under a contractual agreement with your agency, prepared to deal with the coronavirus? What guidance has your agency provided to detention centers? What processes have been employed to procure test kits or other necessary items? How are detainees' ability and right to communicate with loved ones being ensured?
16. What medical supplies and hygiene products are being made available to detainees? What contingency plan is being made available to detainees and officers in case of a lack of water, soap, or the need for humane quarantine procedures?
17. What safeguards are being put in place to ensure that all facilities, including those that are operated by private corporations, are providing equal access to hand washing stations and other medical care immediately upon request?
18. What is the protocol in the event positive tests, either among those detained or staff? Are adequate numbers of nurses or doctors available in all detention centers?

Your answers to these questions are critical to ensuring that enforcement is not prioritized over other pressing issues like public health. The Coronavirus presents a gargantuan challenge, and we must ensure that all resources are directed appropriately to handle the pandemic and its resolution.

Sincerely,



Nydia M. Velázquez
Member of Congress



Alexandria Ocasio-Cortez
Member of Congress



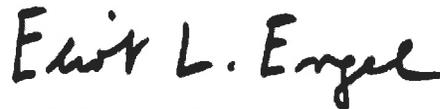
Adriano Espaillat
Member of Congress



Grace Meng
Member of Congress



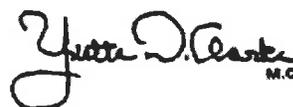
Carolyn B. Maloney
Member of Congress



Eliot L. Engel
Member of Congress



José E. Serrano
Member of Congress



Yvette D. Clarke
Member of Congress