



March 23, 2020

Todd Thurlow
ICE ERO Manchester Assistant Field Office Director
ICE Enforcement and Removal Operations
275 Chestnut Street Ste 210
Manchester, NH 03101

cc: Todd Lyons
ICE Boston Field Office Acting Director
ICE Boston Field Office
1000 District Avenue
Burlington, MA 01803

Re: Immediate Suspension of Immigration Enforcement Operations and the Release of
Detained Individuals due to COVID-19

Dear Directors Thurlow and Lyons,

We are writing to you as advocates for immigrants detained by ICE at the Strafford County Department of Corrections in New Hampshire. As responses to the COVID-19 virus drastically change the course of daily living worldwide, Immigration and Customs Enforcement must also do their part to hamper the continued spread of this deadly virus.¹ With the rapid spread of COVID-19 throughout the nation, we are writing to urge you to halt all further immigration enforcement operations and in-person court appearances for bond and master calendar hearings, suspend the detention of new individuals, immediately release into the community those individuals in ICE custody at the Strafford County Department of Corrections in New Hampshire, and to prepare a plan for safely reintegrating those individuals into the community.

Immigration Enforcement Actions and In-Person Court Appearances for Bond and Master Calendar Hearings Should be Suspended

We urge you to halt immigration enforcement actions such as CBP checkpoints, warrantless bus searches, ICE raids and sweeps of neighborhoods, workplaces, places of public accommodation and other locations. These broad-sweeping actions strike terror within immigrant communities. We are concerned that this fear will inhibit many in the immigrant community from seeking medical help even if they are

¹ We acknowledge that as of March 18th, 2020, ICE has adjusted its enforcement posture to focus enforcement on risks to public safety and those subject to mandatory detention based on criminal grounds, and to exercise discretion to delay enforcement actions for those not prioritized. However, this continued enforcement still poses a health risk to immigrants prioritized by ICE and those currently in ICE custody.

experiencing symptoms of COVID-19.² The obvious consequence is the unnecessary and otherwise avoidable rapid spread of this highly contagious disease: an outcome in direct opposition to DHS' mission "to secure the nation from the many threats we face."

We also urge you to work with EOIR to suspend in-person court appearances for bond and master calendar hearings. Just this week, a Boston courtroom closed after someone presumed positive for COVID-19 had been in the courtroom.³ Continuing in-person bond and master calendar hearings creates an unnecessary risk of serious illness for detained immigrants, judges, attorneys, and courthouse staff.

ICE Should Suspend Detention of New Individuals and Release Currently Detained Immigrants

Jails and detention centers are spaces with a particularly high risk of disease transmission, due to confinement of people in close quarters and regular movement of personnel in and out of the buildings. Staff risk spreading COVID-19 between detained individuals and their own family members during this pandemic. Detained populations exhibit higher-than-average rates of underlying medical conditions, and the lack of appropriate healthcare to address this pandemic within facilities only exacerbates these conditions, increasing the likelihood of rapid spread should COVID-19 enter a facility. Indeed, health professionals have raised concerns about these health risks and noted that incarcerated populations are likely future epicenters of the pandemic.⁴

In addition, there has been a lack of transparency nationwide regarding whether or not appropriate hygienic practices have been implemented within jails and ICE facilities in the face of the current pandemic. When outbreaks of communicable diseases such as mumps occurred inside ICE facilities in 2018 and 2019, quarantine responses were often inappropriate, resulting in harsh isolation even while exposure continued.⁵ Because COVID-19 spreads so rapidly, and the virus greatly affects people who are immunocompromised, it is of utmost importance that COVID-19 not spread to people held within the Strafford County Department of Corrections, the one facility in New Hampshire that holds immigrants in civil detention. To expedite the process of releasing detainees held at Strafford, ICE should release as many immigrant detainees as possible on their own recognizance and set bonds at a minimum, so that families can reasonably afford to post.

Beyond the serious health risks posed by COVID-19 on detained populations, the pandemic has effectively isolated these individuals from counsel, their family, and their friends as facilities suspend in-person visitation. An individual in removal proceedings has a right to representation by counsel.⁶ Many immigrants enter detention without counsel, and depend heavily on friends and family to secure representation for them. Keeping these individuals detained and therefore isolated from community

² <https://www.nytimes.com/2020/03/18/us/coronavirus-immigrants.html?auth=linked-google>

³ <https://www.wbur.org/commonhealth/2020/03/19/covid-199-coronavirus-exposure-boston-immigration-court>

⁴ Dr. Amanda Klonsky, An Epicenter of the Pandemic Will be Jails and Prisons, if Inaction Continues, The New York Times (March 16, 2020).

⁵

<https://www.reuters.com/article/us-usa-immigration-outbreaks/mumps-other-outbreaks-force-us-detention-centers-to-quarantine-over-2000-migrants-idUSKBN1QR0EW>

⁶ INA § 240(b)(4)(A)

contact infringes upon their right to counsel. Even if an individual has counsel, the phones located within Strafford County Department of Corrections lack the privacy and confidentiality that is essential to effective counsel. The Strafford County Department of Corrections only has one phone per unit for detained individuals, which is inadequate to handle the recent increase in phone traffic due to visitation blocks. For those who cannot communicate effectively over the phone on account of Deafness or other disability, their access to counsel and community are completely blocked, resulting in isolation that goes against DHS' policy of nondiscrimination.⁷

EOIR has announced that non-detained individual hearings have been cancelled as of March 18, 2020.⁸ This is to ensure that social distancing is maintained within court rooms and risk of viral exposure is minimized. The Strafford County Department of Corrections should do its part to contribute to this effort by releasing detainees, so that their hearings will likewise be delayed. This is not only to decrease risk of COVID-19 spread, but also to ensure that individuals have appropriate access to counsel before their hearings, since visitation and phone call limitations inhibit such access within detention.

At a Minimum, ICE Should Release Those at High Risk of Serious Illness and Implement Video Conferencing for all External Communications

At the very least, we urge you to prioritize the release of individuals at Strafford County Department of Corrections who are at high risk of serious illness if they are infected, to coordinate with the Boston Immigration Court to use the Video Conference for all Master Calendar and Bond hearings, and to collaborate with local health departments to maintain the health and safety of detainees and staff in detention facilities.⁹ According to the CDC, the COVID-19 high risk category includes people 60 and older, those with underlying health conditions including heart disease, lung disease, or diabetes, people who have weakened immune systems, and people who are pregnant.¹⁰

Additionally, if some immigrants do remain in detention, we urge you to swiftly implement video conferencing for bond and master calendar hearings as well as for communications with counsel, family and friends. Finally, implementing video conferencing for all communications with attorneys, family, and friends will increase the effectiveness of counsel and reduce the isolating impact of this pandemic.

ICE Should Make Plans for Post-Release of Detainees

Upon release from the Strafford County Department of Corrections, individuals will need support in connecting with family, friends, and public services. ICE should make sure to support individuals in establishing stable living and medical care situations. Such action will ensure that individuals are staying

⁷ https://www.dhs.gov/sites/default/files/publications/dhs-management-directive-disability-access_0_0.pdf

⁸ <https://www.justice.gov/eoir/eoir-operational-status-during-coronavirus-pandemic>

⁹ See 8 C.F.R. 212(b)(1)-(2) (providing for the release of people with "serious medical conditions in which continued detention would not be appropriate" and pregnant women)

¹⁰ Centers for Disease Control and Prevention, Coronavirus Disease 2019 (COVID-19), People at Higher Risk and Special Populations, Mar. 7, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/index.html>.

in one place, mitigating the risk of exposure or spread, and preparing to attend their hearings when the time comes.

We request a specific response plan that enumerates the actions ICE will be taking in the next two weeks regarding the release and appropriate care of detained individuals at the Strafford County Department of Corrections. Multiple corrections centers within the United States are currently taking action to release inmates as a matter of urgent public health policy, including Philadelphia, Delaware, and Montgomery counties in Pennsylvania¹¹; Mecklenburg county in North Carolina¹²; and various counties in California.¹³ We ask that ICE also do their part for the preservation of life and safety within the United States of America.

Thank you for your attention to these urgent matters of public health and access to counsel.

Sincerely,



SangYeob Kim
Immigration Staff Attorney
American Civil Liberties Union of New Hampshire
18 Low Avenue
Concord, NH 03301

Community Voices for Immigrant Rights
241 N. Winooski Ave.
Burlington, VT 05401

Sam L. Cohen Refugee and Human Rights Clinic
Cumberland Legal Aid Clinic
University of Maine School of Law
246 Deering Avenue
Portland, ME 04102

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<https://www.inquirer.com/health/coronavirus/philadelphia-police-coronavirus-covid-pandemic-arrests-jail-overcrowding-larry-krasner-20200317.html>

¹² <https://www.charlotteobserver.com/news/coronavirus/article241279836.html>

¹³

<https://www.mercurynews.com/2020/03/19/bay-area-courts-authorities-ramp-up-release-of-inmates-to-stem-covid-19-risks-in-jails/>