

The Honorable Chad F. Wolf  
Acting Secretary  
Department of Homeland Security  
2801 Nebraska Avenue NW  
Washington, DC 20528

Matthew T. Albence  
Acting Director  
U.S. Immigration and Customs Enforcement  
500 12th St SW  
Washington, DC 20536

Dear Acting Secretary Wolf and Acting Director Albence,

At least 522 ICE detainees and 134 ICE employees have [tested positive](#) for the coronavirus, according to the agency's latest numbers. A new report from the Government Accountability Project [predicts](#) that within 90 days, between 72 and nearly 100 percent of people in ICE custody will be infected.

Unless the Department takes swift action, the number of cases will continue to escalate, threatening not only immigrants but detention officers, maintenance staff and other employees who could spread the virus that causes COVID-19 further into their communities. Two Department medical experts affiliated with Homeland Security have already [warned policymakers](#) of this "tinderbox scenario," in which large numbers of individuals in close quarters rapidly pass the disease to one another, leading to its spread outside of detention center walls.

The [first](#) of the 134 ICE employees who have tested positive reported only "minimal contact" with detainees, and it's possible many more are asymptomatic carriers. Given the [low levels](#) of testing in detention facilities, the number of ICE employees and contractors who currently carry the virus is likely much higher. Protecting the lives of detention center workers and immigrants alike requires reducing the number of individuals detained.

[Multiple Republican](#) and Democratic governors alike are releasing at-risk individuals from prisons and jails to reduce the spread of the COVID-19 virus. Unlike jails and prisons, immigration detainees are not detained primarily for committing crimes but are held during or after administrative removal proceedings. If public officials can safely enact targeted releases in the criminal context, civil immigration facilities can follow suit.

While we support ERO's limited intake of new detainees and the agency's [release](#) of roughly 700 at-risk individuals, this number constitutes approximately two percent of the overall ICE population of 32,000.

The Department should consider further releases for asylum seekers who have passed credible fear screenings, as well as individuals not subject to mandatory detention, such as immigrants without criminal convictions who overstayed their visas and families with children. These decisions should consider whether individuals have ties to the community where they can shelter in place. This would better allow for social distancing recommended by the CDC.

To enact safe releases, the agency should increase testing for detention center staff and detained individuals—particularly those immigrants for whom the agency is considering release. Detainees eligible

for release who have been tested as non-carriers can arrange for safe transport to a residence in the community where they can shelter in place with relatives. For those who test positive and are not eligible for release, the agency can transfer them to a healthcare facility in the community. Should local healthcare systems face resource constraints, the agency can treat these individuals in-custody according to existing medical protocols.

While asylum seekers have generally been subject to mandatory detention, ICE has authority under [INA Section 234\(b\)](#) to grant parole for humanitarian reasons or significant public benefit. At least [5,500](#) detained asylum seekers have passed credible fear screenings and could be considered under this provision.

The Department retains authority under [INA Section 236\(a\)](#) to release aliens not subject to mandatory detention on bond, conditional parole or under an alternative to detention program. Given that [63 percent of ICE detainees](#) had no criminal history as of last April, there is likely a substantial number of potential releases under Section 236(a). The agency can use alternatives to detention, such as tracking devices and case management, which [have proven](#) effective in ensuring individuals appear for their immigration court dates while saving taxpayer dollars.

Reducing the number of immigrants in detention centers would also minimize the strain on our overburdened healthcare system, as individuals in custody who become sick may be transferred to medical facilities in the community. Unfortunately, [roughly a third of immigrants in detention](#) are housed at facilities that have either one or zero hospitals with intensive-care beds within 25 miles. An outbreak in any of those areas could inundate local health care systems that are already experiencing shortages of beds and ventilators. This will lead to preventable deaths.

In order to protect the lives inside ICE facilities and those in neighboring jurisdictions, the undersigned organizations respectfully request a coordinated and timely plan to expedite releases for individuals in immigration custody.

Sincerely,

Arthur Rizer, Director of Criminal Justice and Civil Liberties Policy, **R Street Institute**

Beth Werlin, Executive Director, **American Immigration Council**

Greg Chen, Director of Government Relations, **American Immigration Lawyers Association**

Chris Palusky, President and CEO, **Bethany Christian Services**

Shirley V. Hoogstra, President, **Council for Christian Colleges and Universities**

Major Neill Franklin (Ret.), Executive Director, **Law Enforcement Action Partnership**

Michael Melendez, Director of Policy, **Libertas Institute**

Daniel Garza, President, **LIBRE Institute**

Walter Kim, President, **National Association of Evangelicals**

Ali Noorani, President and CEO, **National Immigration Forum**

Kristie De Peña, Vice President of Policy and Director of Immigration, **Niskanen Center**

Bishop Mario E. Dorsonville, Auxiliary Bishop of Washington and Chairman, **U.S. Conference of Catholic Bishops Committee on Migration**