

Representative Cedric Richmond

2021 Lakeshore Dr. Suite 309

New Orleans, LA 70122

Via Email: Cedric.Richmond@mail.house.gov

cc: deshanon.russell@mail.house.gov, peter.hunter@mail.house.gov,

Governor John Bel Edwards

Office of the Governor

PO Box 94004

Baton Rouge, LA 70804

Via Email: lagov@linknet.net

cc: b.parker@la.gov

Mayor LaToya Cantrell

1300 Perdido St

New Orleans LA

Via Email: lcantrell@nola.gov

cc: jdpourciau@nola.gov

April 3, 2020

RE: Call for the Release of ICE Detainees and No New Arrests During the COVID-19 Crisis

Dear Congressman Richmond, Governor Edwards, and Mayor Cantrell,

We come together as a coalition to urge the release of all immigrants detained in ICE detention centers in Louisiana as we face the COVID-19 crisis. Doctors have described jails as “tinderbox scenarios.”¹ We must act quickly to save the lives of those in detention, facility staff, and the communities they come home to.

Louisiana has seen the fastest growth rate for COVID-19 in the world.² For too long, we have also been an epicenter of mass incarceration. ICE detention centers in LA have gone from 2 for the greater part of the last decade to 12 in the past calendar year.³ ICE detention is discretionary. There’s no public safety reason that people in ICE detention cannot be released to present themselves at a non-detained court, as was the standard practice prior to the Trump administration.⁴ There’s no reason people awaiting their day in court should be sentenced to death in unsanitary and overcrowded conditions in Louisiana jails.

¹ <https://www.cnn.com/2020/03/20/health/doctors-ice-detention-coronavirus/index.html> CNN News, “Doctors warn of 'tinderbox scenario' if coronavirus spreads in ICE detention” Catherine Sholchet, March 20, 2020.

² <https://www.cnn.com/2020/03/23/us/louisiana-coronavirus-fastest-growth/index.html> CNN News, “Louisiana governor says his state has the fastest growth rate of coronavirus cases in the world” Hollie Silverman, March 24, 2020

³ <https://www.freedomformigrants.org/map> and <https://www.google.com/maps/d/u/0/viewer?mid=1BO4zYXRG6fJS2sm-o7qmhJ8szmyqXE6J&ll=32.274278236260635%2C-92.09630189999996&z=7> Some prisons are solely dedicated to ICE detention, and still others have contracts with ICE to dedicate part of their facilities to ICE detention, with populations constantly fluctuating.

⁴ https://www.splcenter.org/sites/default/files/2019.05.30_-_002_-_class_complaint_for_injunctive_and_declaratory_relief.pdf United States District Court of Columbia, Class Complaint for Injunctive and Declaratory Relief, Filed 5/30/19

What We're Calling on You To Do:

- Release all people in ICE detention so that they can report to court from the safety of their families' and community sponsors' homes.
 - We call on you to exert your authority with DHS and Congress to release all people in ICE detention to save lives.
 - The Governor has authority to release all people in detention in the current state of emergency, as established by La. Stat. Ann. § 29:724(D): "In addition to any other powers conferred upon the governor by law, he may do any or all of the following: (1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency."
- Refuse the ICE and CBP request for more than \$800 million in emergency funding increases for quarantine-in-detention policies. Enact a moratorium on ICE and jail expansion during the COVID-19 state of emergency.
 - This disease cannot be contained in detention. Prevention is our only tool, and the only safe policy is to release people from detention.
 - We need those funds for personal protection equipment and respirators for public health for all, not jails.
- Mandate no new misdemeanor arrests for the duration of the COVID-19 Stay-At-Home Order.
- Enact a moratorium on all ICE enforcement activities from the ICE New Orleans Field Office during this public health emergency.
 - In the past, state actors have worked with DHS to establish moratoriums on ICE enforcement operations during hurricane evacuations⁵ as well as during public health crises such as the Flint water crisis⁶. In these instances, DHS guidance explicitly acknowledged that DHS's "highest priority remains the preservation of life and safety." Public health should take priority over routine immigration enforcement. This commitment should guide ICE's policies in the COVID-19 crisis.
 - State and local actors should monitor DHS's activities to ensure compliance. Additionally, they should widely disseminate information about the moratorium in regular and clear announcements in Spanish, Portuguese, Arabic and Vietnamese.
- Enact a moratorium on municipal and state jail transfers of people to ICE custody, also known as "ICE holds".
- Grant clemency to anyone convicted of a misdemeanor crime.

⁵ <https://www.nola.gov/mayor/news/july-2019/new-orleans-stands-ready-for-tropical-storm-barry/> Mayor LaToya Cantrell communique, July 12th 2019, "The New Orleans ICE Field Office has confirmed they will temporarily suspend immigration enforcement in the storm impacted area."

⁶ <https://www.dhs.gov/news/2016/02/24/public-notice-current-water-emergency-flint-mich> "Public Notice on the Current Water Emergency in Flint, Mich." February 24th, 2016 "CBP and ICE are not conducting enforcement operations at or near locations distributing clean water in Flint, Michigan or surrounding areas affected by the current water situation...DHS officials do not and will not pose as individuals providing water-related information or distributing clean water as part of any enforcement activities."

- Establish independent medical oversight of all prison, jail, and detention facilities in Louisiana to address the COVID-19 outbreak in the over 100 facilities that impact nearly 100,000 people incarcerated or working within them.
 - Create an emergency task force empowered to:
 - Enter any location where people do not have the freedom to seek shelter or medical care elsewhere
 - Speak with any person who has complained of symptoms that may be attributed to COVID-19, or who may be in elevated danger based on preexisting conditions, or who is under watch, isolation, quarantine, or treatment for COVID-19 whether inside a secure facility or in an outside medical facility;
 - Make specific recommendations to the Governor and custodial authorities for courses of action, including release of people as individuals or in a cohort, to which the Governor's office shall respond in a timely manner consistent with a pandemic outbreak.
 - Under Louisiana R.S. 40:4(A)(13), the state health officer has the statutory authority to issue emergency rules and orders "for the purposes of controlling nuisances dangerous to the public health and communicable, contagious, and infectious diseases, and any other danger to the public life, health, and safety." COVID-19 is a communicable, contagious, and infectious disease that possesses a danger to the public life, health, and safety of Louisiana citizens.

A Norm of Medical Neglect: In normal conditions, too many of Louisiana's ICE detention centers have been unable to control outbreaks of preventable diseases, such as mumps and scabies. Thursday, April 2nd marked the fourth COVID-19 casualty at Oakdale Federal Institute, a mixed ICE and penitentiary facility.⁷ "We were given 5 bars of soap for the entire week for a cell block of about 70 women- it ran out on the first day," reported Carina Serrano and Maite Rodriguez, a doctor from Cuba, now detained at South Louisiana Correctional Center, an immigration center run by the private prison company GEO Group in Basile, Louisiana. "There's no way to 'distance' here. We sleep in bunk beds on top of each other, in columns with less than a [few feet] between us, head to toe, we use the same cafeteria as those in quarantine with no cleaning in between... my medical opinion is that many people will die if we are not released."⁸

Francisca Morales Diaz, a diabetic who was in quarantine at the same facility reported only 3 day shift nurses for the 500 detainees in the jail, and a doctor who visited once a month. Prison guards who were not trained physicians or even fully bilingual served as intermediaries and interpreters between detained people and medical professionals. "You have to fill out a written request in English, and they take it to the nurses. If the guard doesn't 'feel' like you're sick, that's it, you won't make it to see the nurse." "Absolutely no information has been given to detainees, in English or Spanish, on how to protect ourselves from Coronavirus," Carina Serrano reported⁹.

⁷ <https://www.nytimes.com/reuters/2020/04/02/us/02reuters-health-coronavirus-prisons.html> New York Times, "Death Toll From COVID-19 at Oakdale Prison in Louisiana Continues to Climb" April 2, 2020, Reuters; https://www.wsj.com/articles/first-federal-inmate-dies-of-covid-19-deepening-fear-of-coronavirus-spread-in-prisons-11585456750?fbclid=IwAR1FsDKEk1ARzGtV_FBYyCdfEngkT2APiBRvuQwUF6xXzs6YKKWfsE9R08 Wall Street Journal, "First Federal Inmate Dies of Covid-19, Deepening Fear of Coronavirus Spread in Prisons" Sadie Gurman, March 29, 2020

⁸ Carina Serrano and Doctor Maite Rodriguez Interview with Rachel Taber March 31st, 2020, from South Louisiana Correctional Center in Basile, LA via interpreter Audio Recording: <https://drive.google.com/open?id=1izEwzJi-zpc2NEuhVrkaTDRhkGV1hp4h>

⁹ Ibid.

Many of Louisiana's imprisoned population has pre-existing medical conditions that are exacerbated by detention. DHS's own medical experts are calling for the release of ICE detainees.¹⁰ On April 4th, 2020, people detained in ICE facilities sued for their release.¹¹ With a mortality rate 10 times greater than the flu - Louisiana jails are not equipped to confront COVID-19 without a major loss of life.

Death in Detention - No Way Out: March 24th marked the 10th death in ICE custody in the first 3 months of 2020¹², even before we've seen the full impact of COVID-19. "This will be a massacre," stated Maite Rodriguez, a doctor in her native Cuba. Immigration courts have either been closed or are advancing too slow to make headway against the virus. Many countries are closing their borders to deportation flights, including Guatemala and El Salvador,¹³ or severely limiting them, such as Honduras¹⁴, leaving no way out.^{15,16} We cannot wait until lives are lost to do what is right.

Public Health Freeing people from detention is the only way to prevent COVID-19's wildfire contagion through rural Louisiana's at-large population. Doctors nationwide have called for decarceration to stop the spread.¹⁷ "Guards move freely in and out of the jail without any added health precautions, no gloves, no masks or sanitizer."¹⁸ Many Louisiana jails and prisons house greater numbers of people than the rural communities that surround them, in towns ill-equipped to address how an outbreak might affect prison staff, their families, and local hospitals where detainees in critical condition will be transferred for care. The significant spread of the virus at the Oakdale Correctional Facility has been so overwhelming that testing is being stopped,¹⁹ even though the facility had more than a dozen cases and one death as of March 29th, 2020²⁰.

Reasonable and Safe Alternatives Former ICE Acting Director John Sandway has called for all people in detention

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<https://whistleblower.org/press-release/press-release-dhs-medical-experts-in-detention-health-send-letter-to-congress-on-immigrant-detention-during-the-covid-19-pandemic/> Press Release, Dana Gold, March 21, 2020, "DHS Medical Experts in Detention Health Send Letter to Congress on Immigrant Detention During the COVID-19 Pandemic"

¹¹ <https://ccrjustice.org/sites/default/files/attach/2020/04/2-21%20Dr%20Lydia%20Bazzano.pdf> United States District Court for the Eastern District of Louisiana, Civil Action Case 2:20-cv-01093 Document 2-21 Filed 04/01/20

¹² https://www.democracynow.org/2020/3/24/headlines/mexican_man_is_the_10th_death_in_ice_custody_since_october DemocracyNow "Mexican Man is 10th Death in ICE Custody since October" March 24th, 2020

¹³ <https://www.miamiherald.com/news/local/immigration/article241269341.html>, Miami Herald "Deportation flights from U.S. to Guatemala canceled after leaders shut down its borders" Monique Madan, March 17th, 2020

<https://www.nytimes.com/reuters/2020/03/18/world/americas/18reuters-health-coronavirus-el-salvador-deportations.html>, New York Times, "El Salvador Halts Deportation Flights" 3/18/20, Reuters

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<https://reuters.com/article/us-health-coronavirus-honduras/honduras-suspends-deportation-flights-from-mexico-on-coronavirus-fears-idUSKBN20X33V> "Honduras suspends deportation flights from Mexico on coronavirus fears" March 10, 2020 Reuters

¹⁵ <https://www.justice.gov/eoir/eoir-operational-status-during-coronavirus-pandemic> United States Department of Justice Communique, April 2, 2020

¹⁶ http://www.criminalcourt.org/uploads/2/5/3/5/25359518/criminal_district_court_for_the.pdf Orleans Parish Criminal Court En Banc Statement March 27, 2020

¹⁷ <https://www.nejm.org/doi/full/10.1056/NEJMp2005687?query=RP> New England Journal of Medicine, "Flattening the Curve for Incarcerated Populations — Covid-19 in Jails and Prisons" Matthew J. Akiyama, M.D., Anne C. Spaulding, M.D., Josiah D. Rich, M.D., April 2, 2020

¹⁸ Testimony from Carina Serrano, a Cuban asylum seeker, per Interview with Rachel Taber March 31st, 2020, from South Louisiana Detention Center in Basile, LA via interpreter <https://drive.google.com/open?id=1izEwzJi-zpc2NEuhVrkaTDRhkGV1hp4h>

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<https://thelensnola.org/2020/03/31/louisiana-federal-prison-no-longer-testing-symptomatic-inmates-for-coronavirus-due-to-sustained-transmission/> The Lens New Orleans "Louisiana federal prison no longer testing symptomatic inmates for coronavirus due to 'sustained transmission'" Nicholas Chrastil, March 31, 2020

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<https://www.wsj.com/articles/first-federal-inmate-dies-of-covid-19-deepening-fear-of-coronavirus-spread-in-prisons-11585456750?fbclid=IwAR0KlRUYlib7Cdm688pQcjbNzBVKsLzSZFFNhBt7hzEljafLymnrViYtnqo> "First Federal Inmate Dies of Covid-19, Deepening Fear of Coronavirus Spread in Prisons" Sadie Gurman, March 29, 2020

to be released: “When you look at the population of ICE and who’s in those detention facilities, and you recognize that really only a small percentage pose any public safety threat, when you recognize that their immigration proceedings can continue even if they’re out of custody, and when you look at the thousands of ICE officers, contract guards and employees who have to go to those facilities every day, who frankly are just as much at risk of catching COVID-19 because of their exposure to the facilities themselves, it seems just very commonsensical to me to say, let’s go ahead and downsize the population of the detention centers dramatically, release these individuals.”

Less than 2 decades ago, ICE didn’t exist. Historically, asylum seekers who have received positive credible fear interviews (CFI) have been released from detention and allowed to pursue their cases while released. ICE’s own guidance directs them to release such individuals.²¹

Congressional Committee of Homeland Security Chair Representative Benny Thompson of Mississippi declared in a press release April 1st, 2020 that all people in ICE detention should be released from jails. “This is not only for the health of these immigrants, but also for the health of the DHS frontline workforce and the general public. It is clear that ICE detention facilities, including local and privately contracted facilities, are unable to properly follow CDC standards set to combat the spread of the coronavirus. Without action these facilities will inevitably become breeding grounds for the virus.”²²

During Hurricane Barry, thanks to Mayor Cantrell’s leadership, ICE agreed not to arrest people evacuating the city during that state of emergency of Hurricane Barry. We must act quickly to ensure there are no new arrests that could bring COVID-19 into Louisiana jails and endanger people in detention, guards, and the rural communities they come home to.

We hope you can act quickly in unison to save lives.

Signed,

Homero Lopez, ISLA Immigration
Bruce Reilly, VOTE
Cynthia Amezcua, New Orleans Public Defenders
Maria Pabon, Loyola College of Law
Laila Hlass, Tulane Immigration Clinic
Sofia Casini, Freedom for Immigrants
Rev. Ben Groth, Bethlehem Lutheran Church
Nadia Ben-Youssef, Advocacy Director, Center for Constitutional Rights
Ursula Price, New Orleans’ Workers’ Center for Racial Justice
Angela Davis, Project Ishmael
Salvador Longoria, Puentes
Nell Hahn, Louisiana AID
Lorena Quiroz, Immigrant Alliance for Justice and Equity
Mary Moran, Nuestra Voz

²¹ https://www.ice.gov/doclib/dro/pdf/11002.1-hd-parole_of_arriving_aliases_found_credible_fear.pdf “US Immigration and Customs Enforcement Parole of Arriving Aliens Found to Have a Credible Fear of Prosecution and Torture” January 4, 2010

²² Congressional Committee on Homeland Security Press Release Wednesday, April 1st, 2020.

Martha Alguera, Voces Unidas

Seth Stanton, Miles4Migrants

Laura Rivera, Southeast Immigrant Freedom Initiative, SPLC Action Fund

Bill Quigley, Professor of Law and Director of the Loyola Law Clinic & the Gillis Long Poverty Law Center

Rev. Fred Kammer, S.J., Executive Director, Loyola University

Drew R. Ballina, Heller, Draper, Patrick, Horn & Manthey, L.L.C.

Rabbi Katie Bauman, Touro Synagogue

Hiroko Kusuda, Loyola Immigration Law Clinic

Matt Vogel, National Immigration Project of the National Lawyers Guild

Loyola Hispanic Law Student Association

Bancha Lenguas Language Justice Collective

Grannies Respond New Orleans

Extinction Rebellion

Detention Lifeline