

April 20, 2020

DELIVERED VIA EMAIL

Jim Martin  
Acting Miami Field Office Director  
Miami Field Office, Enforcement and Removal Operations (ERO)  
Immigration and Customs Enforcement (ICE)  
U.S. Department of Homeland Security (DHS)  
865 SW 78th Avenue Suite  
101 Plantation, FL, 33324  
Phone: (954) 236-4900  
Miami.outreach@ice.dhs.gov



Re: Urging ICE Immediate Release of Detained Individuals to Prevent Facility-Wide Outbreaks and Save Lives

Dear Director Martin,

On behalf of more than 130,000 members and supporters of the American Civil Liberties Union (ACLU) of Florida, we write to urge that you heed the advice of public health experts and release people detained within your jurisdiction (including, but not limited to, Krome Service Processing Center, Broward Transitional Center, Glades County Detention Center, Wakulla County Facility, and Baker County Facility), beginning with the medically vulnerable. The lives and health of thousands of people in detention and of ICE officers and facility staff are at stake. We urge you to act now to prevent an outbreak, which would stretch our local health care system to the breaking point.

As you know, detention facilities are simply not designed or equipped to handle this unprecedented public health crisis. There is an “imminent risk to the health and safety of immigrant detainees,” according to physicians who have investigated detention facilities on behalf of DHS and are experts in the field of detention health.<sup>1</sup> Detainees are in imminent danger by the mere fact that during this pandemic they are continuing to be held inside the detention center with no ability to social distance or to have access to personal protective equipment while ICE continues to book new inmates, crowd dormitories and group hundreds of potentially infected inmates together. Medical professionals have warned that once an outbreak occurs in immigration detention, it will spread quickly and have a devastating impact. According to another group of medical professionals:

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<sup>1</sup> Letter from Dr. Scott A. Allen, Professor Emeritus, Clinical Medicine University of California Riverside School of Medicine and Dr. Josiah “Jody” Rich, Professor of Medicine and Epidemiology, Brown University to Congress (Mar. 19 2020), <https://assets.documentcloud.org/documents/6816336/032020-Letter-From-Drs-AllenRich-to-Congress-Re.pdf>.

4343 W. Flagler St.  
Miami, FL  
(786) 363-2700  
acluf.org

Micah W. Kubic, Ph.D.  
Executive Director



We can expect spread of COVID-19 [in immigration detention facilities] in a manner similar to that at the Life Care Center of Kirkland, Washington, at which over 50% of residents have tested positive for the virus and over 20% have died in the past month. Such an outbreak would further strain the community’s health care system. Considering the extreme risk presented by these conditions in light of the global COVID-19 epidemic, it is impossible to ensure that detainees will be in a ‘safe, secure and humane environment,’ as ICE’s own National Detention Standards state.<sup>2</sup>

The continued detention of immigrants also jeopardizes the health and safety of ICE officers, facility staff and other workers in the facilities. As long as these facilities operate, staff will inevitably be exposed to either detained individuals or co-workers with COVID-19, including asymptomatic transmitters who do not yet and may never show signs of the disease.<sup>3</sup> As these ICE officers, facility staff and workers return home each day, they also risk exposing loved ones and community members to COVID-19.

Our local healthcare workers and first responders already face critical shortages of equipment and protective gear. An outbreak at these facilities could flood local healthcare facilities with additional cases, adding to the crisis they are facing and undermining our collective efforts to “flatten the curve” as recommended by the CDC and senior government officials. Nor will ICE officers and facility staff have enough personal protective equipment for themselves or detained people, if an outbreak does occur, given current nationwide shortages.

At the very least, we urge you to immediately release people from custody who are particularly at risk to complications from COVID-19, based on guidance by the CDC and other medical experts. That includes all people who are over 50 years old and all people (of any age) who have an underlying medical condition that increases their risks--heart disease, chronic liver or kidney disease (including hepatitis and dialysis patients), diabetes, epilepsy, hypertension, compromised immune systems (such as from cancer, HIV, or autoimmune disease), blood disorders (including sickle cell disease), inherited metabolic disorders, stroke, developmental delay, and pregnancy.

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<sup>2</sup> 4 Letter from Medical Professionals to ICE Acting Director Matthew T. Albence (Mar. 19 2020), <https://nylpi.org/wp-content/uploads/2020/03/FINAL-LETTER-OpenLetter-to-ICE-From-Medical-Professionals-Regarding-COVID-19.pdf>.

<sup>3</sup> Sam Whitehead, *CDC Director on Models for the Months to Come: ‘This Virus Is Going To Be With Us* National Public Radio (Mar. 31, 2020), <https://www.npr.org/sections/health-shots/2020/03/31/824155179/cdc-director-on-models-for-the-months-to-come-this-virus-is-going-to-be-with-us>.



As Field Office Director you have the authority to exercise discretion to release individuals from ICE custody. This exercise of discretion comes from a long line of agency directives explicitly instructing officers to exercise favorable discretion in cases involving severe medical concerns and other humanitarian equities militating against detention.<sup>4</sup> ICE has released individuals on medical grounds regardless of the statutory basis for a noncitizen’s detention. ICE not only has authority to exercise prosecutorial discretion to release individuals due to medical concerns, it has routinely exercised such discretion in the past.

In addition to releasing individuals on humanitarian parole, ICE has the authority to redetermine bond and release people in custody on their own recognizance or on a reasonable bond amount that is based on their ability to pay. ICE also has the authority to release people on lesser forms of supervision, including alternatives to detention programs, to mitigate any concerns about flight risk. Releasing detained individuals will save the lives of immigrants, ICE officers, facility staff and the broader community. We urge you to seize this opportunity and do your part to address the risks that COVID-19 pose to us all.

Thank you for your time and attention to this matter. If you have any questions or would like any additional information, please contact Amien Kacou, Immigration Staff Attorney ([akacou@aclufl.org](mailto:akacou@aclufl.org)) or Kara Gross, Legislative Director and Senior Policy Counsel ([kgross@aclufl.org](mailto:kgross@aclufl.org)).

Sincerely,

A handwritten signature in black ink that reads "Micah W. Kubic". The signature is written in a cursive style with a long, sweeping underline.

Micah W. Kubic, Ph.D.  
Executive Director

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<sup>4</sup> See, e.g., U.S. Immigration and Customs Enforcement, “Detention Reform,” (last updated July 24, 2018), <https://www.ice.gov/detention-reform#tab1> (referencing use of risk classification assessment tools that “require[] ICE officers to determine whether there is any special vulnerability that may impact custody and classification determinations”); ICE Enforcement and Removal Operations, “Directive 11071.1: Assessment and Accommodations for Detainees with Disabilities” (Dec. 15, 2016), at 9 (providing for release as an option for detainees with disabilities); Doris Meissner, “Exercising Prosecutorial Discretion,” Immigration and Naturalization Services (Nov. 17, 2000), at 11 (citing “aliens with a serious health concern” as a trigger for the favorable exercise of discretion).