

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

Majority (202) 225-5051  
Minority (202) 225-5074

<http://oversight.house.gov>

March 11, 2020

The Honorable Chad F. Wolf  
Acting Secretary of Homeland Security  
245 Murray Lane, S.W.  
Washington, D.C. 20528

Dear Acting Secretary Wolf:

We are seeking information on your plan for preventing and responding to a potential outbreak of the COVID-19 virus in Immigration and Customs Enforcement (ICE) and Customs and Border Patrol (CBP) migrant detention facilities and in the broader immigrant community.

The Department of Homeland Security (DHS) has a well-documented history of failing to prevent the spread of disease among vulnerable populations in detention facilities. Between September 1, 2018, and August 22, 2019, there were almost 900 cases of mumps in ICE detainees across 57 facilities in 19 states. According to the Centers for Disease Control and Prevention (CDC), almost 84% of patients were exposed while in the custody of ICE or another U.S. agency, with only 5% being exposed prior to being held in custody.<sup>1</sup>

Other diseases, such as chicken pox and the flu, have also spread in ICE and CBP facilities.<sup>2</sup>

The Oversight Committee wrote to you in December about the Department's handling of the flu in CBP facilities.<sup>3</sup> Your continued failure to respond to that letter raises further concerns about the Department's ability to address new public health issues in its facilities.

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<sup>1</sup> *Almost 900 Migrants Were Exposed to a Mumps Outbreak While in Detention, CDC Says*, NBC News (Aug. 30, 2010) (online at [www.nbcnews.com/news/latino/almost-900-migrants-were-exposed-mumps-outbreak-while-detention-cdc-n1048261](http://www.nbcnews.com/news/latino/almost-900-migrants-were-exposed-mumps-outbreak-while-detention-cdc-n1048261)).

<sup>2</sup> *5,200 People in ICE Custody Quarantined for Exposure to Mumps or Chicken Pox*, CNN (June 14, 2019) (online at [www.cnn.com/2019/06/14/politics/mumps-chicken-pox-quarantine-ice/index.html](http://www.cnn.com/2019/06/14/politics/mumps-chicken-pox-quarantine-ice/index.html)); *CDC Recommended that Migrants Receive Flu Vaccine, But CBP Rejected the Idea*, Washington Post (Nov. 25, 2019) (online at [www.washingtonpost.com/immigration/cdc-recommended-that-migrants-receive-flu-vaccine-but-cbp-rejected-the-idea/2019/11/25/8aba198e-0fb8-11ea-b0fc-62cc38411ebb\\_story.html](http://www.washingtonpost.com/immigration/cdc-recommended-that-migrants-receive-flu-vaccine-but-cbp-rejected-the-idea/2019/11/25/8aba198e-0fb8-11ea-b0fc-62cc38411ebb_story.html)).

<sup>3</sup> Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, to Acting Secretary Chad F. Wolf, Department of Homeland Security (Dec. 23, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-12-23.CBM%20to%20Wolf%20re%20Death%20in%20Custody.pdf>).

DHS detention facilities may be especially vulnerable to the spread of coronavirus because of the Administration's excessive use of detention. This Administration's immigration policies have grown the daily detainee population by more than 40%, resulting in severe overcrowding at detention facilities.<sup>4</sup> Overcrowding creates dangerous conditions that increase the likelihood that disease will spread and make it more difficult to effectively quarantine contagious detainees.<sup>5</sup>

The CDC believes that widespread transmission of coronavirus is likely to occur in the United States, affecting "critical infrastructure, such as law enforcement, emergency medical services, and [the] transportation industry."<sup>6</sup> The World Health Organization stated that coronavirus spreads between people in close contact, through respiratory droplets when an infected person coughs or sneezes, and possibly by touching infected surfaces.<sup>7</sup>

The Administration must ensure that the conditions of detainees in DHS facilities are not compromised by haphazard, ineffective, or punitive quarantine policies. During a prior quarantine for a mumps outbreak at an ICE facility, hundreds of detainees reportedly were placed on lockdown and deprived of access to their lawyers even though their immigration court cases were not stayed. At least one quarantined detainee was ordered deported after facing an immigration judge without access to counsel.<sup>8</sup>

We also call on you to adapt DHS policies to support the government-wide effort to prevent and contain the spread of the coronavirus within the United States. Protecting the public health requires that both documented and undocumented persons be able to seek out testing and receive treatment. As COVID-19 begins to spread in the United States, DHS must remove barriers preventing immigrants from receiving the care they need.

The Administration's public charge rule, which took effect on February 24, 2020, threatens to punish immigrants for seeking care related to coronavirus if they use any public benefits. DHS recently argued in court that immigrants concerned about coronavirus should seek

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<sup>4</sup> *Detained: How the U.S. Built the World's Largest Immigrant Detention System*, The Guardian (Sept. 24, 2019) (online at [www.theguardian.com/us-news/2019/sep/24/detained-us-largest-immigrant-detention-trump](http://www.theguardian.com/us-news/2019/sep/24/detained-us-largest-immigrant-detention-trump)).

<sup>5</sup> *The U.S. Won't Provide Flu Vaccines to Migrant Families at Border Detention Camps*, CNBC (Aug. 20, 2019) (online at [www.cnn.com/2019/08/20/the-us-wont-vaccinate-migrant-children-against-the-flu-at-border-camps.html](http://www.cnn.com/2019/08/20/the-us-wont-vaccinate-migrant-children-against-the-flu-at-border-camps.html)); *Government Watchdog Find 'Dangerous Overcrowding' at U.S. Border Facility*, Reuters (May 31, 2019) (online at [www.reuters.com/article/us-usa-immigration-border/government-watchdog-finds-dangerous-overcrowding-at-us-border-facility-idUSKCN1T12GI](http://www.reuters.com/article/us-usa-immigration-border/government-watchdog-finds-dangerous-overcrowding-at-us-border-facility-idUSKCN1T12GI)).

<sup>6</sup> Centers for Disease Control and Prevention, *Coronavirus Disease 2019 (COVID-19) Situation Summary* (Feb. 29, 2020) (online at [www.cdc.gov/coronavirus/2019-ncov/summary.html](http://www.cdc.gov/coronavirus/2019-ncov/summary.html)).

<sup>7</sup> *What We Know About Coronavirus, From Symptoms to Who is at Risk*, Wall Street Journal (Mar. 3, 2020) (online at [www.wsj.com/articles/what-we-know-about-the-wuhan-virus-11579716128](http://www.wsj.com/articles/what-we-know-about-the-wuhan-virus-11579716128)).

<sup>8</sup> *Mumps, Other Outbreaks Force U.S. Detention Centers to Quarantine Over 2,000 Migrants*, Reuters (Mar. 10, 2019) (online at [www.reuters.com/article/us-usa-immigration-outbreaks/mumps-other-outbreaks-force-us-detention-centers-to-quarantine-over-2000-migrants-idUSKBN1QR0EW](http://www.reuters.com/article/us-usa-immigration-outbreaks/mumps-other-outbreaks-force-us-detention-centers-to-quarantine-over-2000-migrants-idUSKBN1QR0EW)).

private care and pay for it themselves rather than rely on public benefits.<sup>9</sup> Any application of the public charge rule that discourages people from getting tested or treated for COVID-19 poses a serious and direct threat to everyone's health and threatens to further spread the disease within this country. DHS must make clear that the public charge rule will not apply to anyone relying on public benefits to seek testing or treatment for COVID-19.

For all these reasons, we request that DHS provide information and documents sufficient to show the following:

1. Whether DHS is testing detainees for COVID-19, and, if so:
  - a. what testing protocol DHS is using;
  - b. when the testing began;
  - c. how many detainees have been tested and in which facilities; and
  - d. how many of the tested detainees in each facility tested positive for the virus how many tested negative, and how many had test results that were inconclusive;
2. How DHS will house or quarantine presumptive or confirmed cases of COVID-19 to protect both high risk and otherwise healthy detainees and staff from contracting the virus;
3. What medical care DHS will provide to detainees with presumptive or confirmed cases of COVID-19;
4. How DHS will collect data and keep records on detainees with presumptive or confirmed cases of diagnosed COVID-19;
5. What steps DHS will take to reduce overcrowding in DHS facilities and free up space for effective quarantines of sick detainees, including by reducing the number of migrants detained unnecessarily;
6. How DHS will ensure that detainees will be able to receive meaningful access to their attorneys even if the detainee or the facility is subject to quarantine procedures or take other steps to ensure their cases are not prejudiced by limited access to their attorneys should this occur;
7. Whether and how DHS is coordinating with state and local governments on COVID-19 matters in areas where detention facilities are located;

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<sup>9</sup> *Days After New Immigration Restrictions Take Effect, Federal Judges in Chicago Grill Trump Administration Lawyer on So-Called Public Charge Rule*, Chicago Tribune (Feb. 26, 2020) (online at [www.chicagotribune.com/news/ct-immigration-wealth-test-public-charge-illinois-court-20200227-xood6pswtzbo3kugsd6spmpeee-story.html](http://www.chicagotribune.com/news/ct-immigration-wealth-test-public-charge-illinois-court-20200227-xood6pswtzbo3kugsd6spmpeee-story.html)).

8. How DHS will address the potential spread of coronavirus in its detention facilities; and
9. What steps DHS will take to remove barriers to immigrants receiving testing or treatment for COVID-19, including whether DHS will suspend the public charge rule for immigrants using public benefits to seek testing or treatment for COVID-19.

Please provide the requested written information by March 18, 2020, as well as a briefing to Committee staff by March 18, 2020. The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X.

An attachment to this letter provides additional instructions for responding to the Committee’s request. If you have any questions regarding this request, please contact Committee staff at (202)-225-5051.

Sincerely,



Carolyn B. Maloney  
Chairwoman  
Committee on Oversight and Reform



Jamie Raskin  
Chairman  
Subcommittee on Civil Rights and Civil Liberties

Enclosure

cc: The Honorable Jim Jordan, Ranking Member  
Committee on Oversight and reform

The Honorable Chip Roy, Ranking Member  
Subcommittee on Civil Rights and Civil Liberties

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<http://oversight.house.gov>

April 7, 2020

The Honorable Chad Wolf  
Acting Secretary  
Department of Homeland Security  
245 Murray Lane, S.W.  
Washington, D.C. 20528

Mr. Matthew T. Albence  
Acting Director  
Immigration and Customs Enforcement  
Department of Homeland Security  
500 12th Street, S.W.  
Washington, D.C. 20536

Mr. Mark Morgan  
Acting Commissioner  
Customs and Border Protection  
Department of Homeland Security  
1300 Pennsylvania Avenue, N.W.  
Washington, D.C. 20229

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

As the coronavirus crisis continues to worsen and take thousands of lives across our country, we write to follow up on our March 11, 2020, letter to Acting Secretary Wolf requesting information about your plans to protect detained immigrants in Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) detention facilities. In that letter, we requested, among other things, your plans on how the Department of Homeland Security will address overcrowding in detention facilities in order to minimize the spread of the contagion and free up sufficient space for effective quarantining.

Unfortunately, the Department has not supplied the full information requested in our previous letter. Though Department staff provided a briefing to Committee staff on March 20, 2020, that briefing and recent developments have exacerbated our concerns for the safety and well-being of detainees, particularly given the high risk of outbreak of this virus in your facilities.

As of today, nineteen detainees and seven facility staff have tested positive for coronavirus at six ICE facilities across the country. ICE has stated that it has stopped arresting immigrants who pose no public safety threat in order to avoid further filling these detention facilities.<sup>1</sup>

The Department must take swift action to decrease the detainee population to prevent further spread of this disease. In light of recent reports of detainees and staff testing positive at multiple detention centers, the high risk of further outbreaks in the near future, and the lack of adequate medical staff and equipment, we call on you to immediately release non-violent detainees, prioritizing those who are at higher risk for complications from coronavirus. Releasing these non-violent detainees will prevent the unnecessary infection, sickness, and death of the men and women who work in these facilities and those who are detained.

More than 3,000 doctors have called for the release of detainees who do not pose an immediate risk to public safety, noting the dangerous conditions in facilities where “detainees live in close quarters, with subpar infection control measures in place, and whose population represents some of the most vulnerable.”<sup>2</sup>

Former ICE Director John Sandweg also recommended releasing detainees, stressing that an outbreak in a detention facility poses a severe danger both to detainees and the communities where detention facilities are located. He warned that an outbreak could expose the hundreds of people working in ICE facilities to the virus, stating: “Once exposed, many of them will unknowingly take the virus home to their family and community.”<sup>3</sup>

If an outbreak spreads from a facility into the community, it will exacerbate the strain on local hospitals since many detention centers are in rural areas with very little medical infrastructure.<sup>4</sup> ICE officials conceded during their briefing for Committee staff that they have

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<sup>1</sup> Immigration and Customs Enforcement, *ICE Guidance on COVID-19* (online at [www.ice.gov/coronavirus](http://www.ice.gov/coronavirus)).

<sup>2</sup> *Thousands of Doctors Demand ICE Release Detainees to Stop a COVID-19 Disaster*, Vice (Mar. 18, 2020) (online at [www.vice.com/en\\_us/article/4agp4w/thousands-of-doctors-demand-ice-release-detainees-to-stop-a-covid-19-disaster](http://www.vice.com/en_us/article/4agp4w/thousands-of-doctors-demand-ice-release-detainees-to-stop-a-covid-19-disaster)); *Open Letter to ICE from Medical Professionals Urging the Release of Individuals in Immigration Detention Given the Risk of COVID-19* (online at [https://docs.google.com/forms/d/e/1FAIpQLScB1YLk-MHzdJ2ahcxx25NRRqEnlRTk\\_xA6Q6cJTfZXUQV-Dg/viewform?fbclid=IwAR02eh8VMxG4iqv9p6JdD9OejZMVU\\_npHxxVJ\\_rQTwmxSbr-L5s7qWKvdQ0](https://docs.google.com/forms/d/e/1FAIpQLScB1YLk-MHzdJ2ahcxx25NRRqEnlRTk_xA6Q6cJTfZXUQV-Dg/viewform?fbclid=IwAR02eh8VMxG4iqv9p6JdD9OejZMVU_npHxxVJ_rQTwmxSbr-L5s7qWKvdQ0)); *We Must Release Prisoners to Lessen the Spread of Coronavirus*, Washington Post (Mar. 17, 2020) (online at [www.washingtonpost.com/opinions/2020/03/17/we-must-release-prisoners-lessen-spread-coronavirus/](http://www.washingtonpost.com/opinions/2020/03/17/we-must-release-prisoners-lessen-spread-coronavirus/)).

<sup>3</sup> *I Used to Run ICE. We Need to Release the Nonviolent Detainees*, Atlantic (Mar. 22, 2020) (online at [www.theatlantic.com/ideas/archive/2020/03/release-ice-detainees/608536/](http://www.theatlantic.com/ideas/archive/2020/03/release-ice-detainees/608536/)).

<sup>4</sup> *Trump Administration Sued Over Poor Medical Care in Immigration Centers*, Politico (Aug. 19, 2019) (online at [www.politico.com/story/2019/08/19/trump-administration-sued-medical-care-immigration-centers-1467605](http://www.politico.com/story/2019/08/19/trump-administration-sued-medical-care-immigration-centers-1467605)).

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Mr. Matthew T. Albence  
Mr. Mark Morgan  
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no contingency plan for coronavirus treatment if local hospitals become overwhelmed and cannot treat detainees.

Even the little information provided by the Department about its plans seems to directly contradict guidance from the Centers for Disease Control and Prevention (CDC) on preventing the spread of coronavirus in detention facilities. ICE officials have indicated that if detainees have contact with someone who has tested positive, they will be “cohorted” together in isolation.<sup>5</sup> The CDC specifically warned that such cohorting should be a last resort because it “could transmit COVID-19 from those who are infected to those who are uninfected.”<sup>6</sup>

Finally, although ICE officials informed Committee staff that they are “scrubbing” lists of detainees to determine whether any can be released, ICE has not produced to the Committee any criteria or information about which immigrants will be released or when that will happen. To the contrary, ICE has continued to challenge lawsuits seeking to free nonviolent immigrants from dangerous detention facilities.<sup>7</sup>

When we wrote to you on March 11, 2020, the United States had nearly 1,200 confirmed cases of coronavirus and 38 deaths.<sup>8</sup> On March 25, 2020, Committee staff requested a Member briefing. That day, the United States had approximately 65,000 confirmed cases and 928 deaths.<sup>9</sup> Today, the United States has nearly 370,000 cases and more than 11,000 deaths.<sup>10</sup> The Department cannot continue to drag its feet in response to this crisis. Now is the time to prevent an exponential increase in cases and deaths.

For these reasons, we request that Acting Director Albence and Acting Commissioner Morgan provide Members of our Committee with a video briefing on this issue by April 14, 2020. We also request that the Department provide the information requested in our March 11, 2020, letter and during the March 20, 2020, staff briefing no later than April 10, 2020.

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<sup>5</sup> *Nearly 20 ICE Workers Have Tested Positive for COVID-19 as Agency Sees First Case Among Detainees*, Newsweek (Mar. 25, 2020) (online at [www.newsweek.com/nearly-20-ice-workers-have-tested-positive-covid-19-agency-sees-first-case-among-detainees-1494128](http://www.newsweek.com/nearly-20-ice-workers-have-tested-positive-covid-19-agency-sees-first-case-among-detainees-1494128)).

<sup>6</sup> Centers for Disease Control and Prevention, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities* (Mar. 23, 2020) (online at [www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html#Cohorting](http://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html#Cohorting)).

<sup>7</sup> *Judge Orders 11 At-Risk ICE Detainees Released Over Coronavirus Fears*, The Hill (Mar. 31, 2020) (online at <https://thehill.com/latino/490387-judge-orders-11-infirm-ice-detainees-released-over-coronavirus-fears>).

<sup>8</sup> *March 11 Coronavirus News*, CNN (Mar. 11, 2020) (online at [www.cnn.com/world/live-news/coronavirus-outbreak-03-11-20-intl-hnk/index.html](http://www.cnn.com/world/live-news/coronavirus-outbreak-03-11-20-intl-hnk/index.html)).

<sup>9</sup> *March 25 Coronavirus News*, CNN (Mar. 25, 2020) (online at [www.cnn.com/world/live-news/coronavirus-outbreak-03-25-20-intl-hnk/index.html](http://www.cnn.com/world/live-news/coronavirus-outbreak-03-25-20-intl-hnk/index.html)).

<sup>10</sup> *More Than 11,000 People Have Died from Coronavirus in the US*, CNN (Apr. 7, 2020) (online at [www.cnn.com/world/live-news/coronavirus-pandemic-04-07-20/index.html](http://www.cnn.com/world/live-news/coronavirus-pandemic-04-07-20/index.html)).

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Mr. Mark Morgan  
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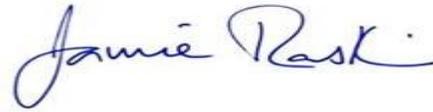
The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” and “any time” under House Rule X. If you have any questions regarding this request, please contact Committee staff at (202)-225-5051.

Sincerely,



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Carolyn Maloney  
Chairwoman  
Committee on Oversight and Reform



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Jamie Raskin  
Chairman  
Subcommittee on Civil Rights and Civil  
Liberties

cc: The Honorable Chip Roy, Ranking Member  
Subcommittee on Civil Rights and Civil Liberties

## Responses to UNHCR on Title 42 and CDC Order Questions

- **Question: Processing of asylum-seekers under the new CDC Order: We are interested to better understand how the new CDC Order, issued on March 20, is being applied to asylum-seekers arriving to the United States. Since the CDC Order is silent on asylum and other forms of protection under US law, we would be grateful for clarity on this subject.**

**Response:** For further background, as noted the U.S. Department of Health and Human Services’ (“HHS”) Centers for Disease Control and Prevention (“CDC”) has determined that the potential introduction and spread of COVID-19 in the U.S. Customs and Border Protection (“CBP”) stations and facilities presents a serious danger to migrants, our frontline agents and officers, and the American people. Thus, the CDC issued an order pursuant to its authority under 42 U.S.C. sections 265, 268, *Order Suspending Introduction Of Persons From A Country Where A Communicable Disease Exists* (March 20, 2020), 85 Fed. Reg. 16567 (Mar. 24, 2020).

The CDC Order directs that the U.S. Department of Homeland Security (“DHS”) assist it in preventing the introduction into the United States of certain aliens who create a serious danger of introducing communicable diseases. The CDC Order instructs DHS to prevent the introduction of aliens traveling from Canada or Mexico (regardless of their country of origin) who would otherwise be introduced into a congregate setting in a land Port of Entry (“POE”) or Border Patrol station. In compliance with the CDC Order, CBP is seeking an expeditious return of aliens to their country of last transit—Canada or Mexico. When such a return is not possible, the U.S. Government will make every attempt to return these individuals to their country of origin.

With respect to protection, when a CBP officer determines that the CDC Order should not apply to a particular person, a determination based on consideration of significant public health, law enforcement, officer and public safety, and/or humanitarian interests, the CDC Order should thus not be applied. For instance, the order does not apply to persons that DHS determines are likely to be tortured in the country to which they otherwise would be sent.

- **Question: Processing of UACs under the new CDC Order: Similarly, we are interested to know about any changes to the processing of unaccompanied alien children (UACs) under the new CDC Order. In particular, is TVPRA still being applied to UACs and how are Mexican UACs being managed?**

**Response:** All aliens CBP encounters may be subject to the CDC’s *Order Superseding Introduction of Persons from A Country Where a Communicable Disease Exists* (March 20, 2020), including minors.

When any minors who are subject to the CDC Order are encountered without adult family members, CBP works closely with all appropriate federal and foreign partners to ensure the minors, regardless of nationality, are safely and expeditiously returned to their country of last

transit or their country of citizenship to reunite them with their families quickly and safely, if possible. Minors in CBP custody will, of course, be treated with compassion and in a manner consistent with law and policy.

Single minors of course pose the same health risks as other demographics and, in most instances, are processed in the same manner as those without proper travel documentation or otherwise subject to travel restrictions. However, CBP will humanely address the needs of single minors, particularly those of a tender age, and work with their home countries to see they are returned to their families quickly and safely.

CBP also may, on a case-by-case basis, such as when return to the home country is not possible (b) (7)(E) or sees signs of illness, except any alien from the CDC Order. Such minors who are encountered without a parent or legal guardian will be placed in HHS's custody and will receive amenities and services consistent with applicable law and policy.

- **Question: The MPP and ACA: We would welcome any information you can share on the status of the MPP and the US/Guatemala ACA in light of COVID-19.**

**Response:** To the first question, the Migrant Protection Protocols (“MPP”) are still in effect, and amenable migrants continued to be enrolled in MPP every day across the Southwest Border according to the procedures agreed upon between the U.S. Government and the Government of Mexico. There has been and will continue to be strong local coordination between CBP and the National Migration Institute (“INM”) to ensure an orderly presentation of aliens at the limit line.

That said, the U.S. Department of Justice (“DOJ”) and DHS have acted to suspend MPP master calendar and merit hearings in all four court locations until after May 1, 2020 due to health concerns associated with congregate settings, and in order to comply with CDC’s social-distancing recommendations. Procedurally, MPP aliens with scheduled removal hearings on or before May 1, 2020, are expected to present themselves at the POE designated on the tear sheet they received from CBP at the time and date indicated therein. When MPP migrants present at the POE as scheduled, they will receive a Notice of Hearing (“NOH”) with a new hearing date on or after May 4 and the accompanying tear sheet with directions on what time and date to appear at the designated POE for entrance into the United States.

Next, regarding the Asylum Cooperative Agreement (“ACA”) implementation. DHS and the U.S. Department of State (“DOS”) continue constructive dialogue with the Governments of Guatemala, Honduras, and El Salvador regarding implementation of the agreements signed last year between the United States and each country. Specifically, the ACA flights to Guatemala are suspended while the global COVID-19 response is ongoing. Furthermore, the ACA with Honduras will not be implemented until conditions around international travel improve.

- **Question: Areas where UNHCR support DHS’ response to COVID-19: We would like the opportunity to discuss with you how UNHCR may be able to support DHS in its preparedness and response plan at the Southwest border and across the**

**region. We are already supporting governments in a variety of ways; At the Southwest border, our Liaison Officer in San Diego has been engaging with CBP, FEMA and the CDC on the COVID-19 response. We would be happy to brief you on this during our call and explore how we can expand these efforts.**

**Response:** As with previous helpful conversations, DHS certainly welcomes UNHCR's sharing its specific experiences, in this instance regarding the response to health crises in the context of managing irregular migration and refugee populations. CBP, specifically, appreciates the local coordination already taking place in San Diego as well as the resources UNHCR sent with respect to the COVID-19 operational response.

March 23, 2020

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

Dear Acting Secretary Wolf:

We write out of concern for immigrant communities and the general public during the ongoing public health crisis associated with COVID-19. In order to protect the public health of all people, we must ensure that everyone, regardless of their immigration status, is able to comply with local and federal public health agency recommendations and have access to care without fear of enforcement action, retribution, or increased risk.

In times of a public health crisis, it is imperative that we protect the most vulnerable and remove barriers to care for all, including fears of enforcement that prevent immigrant communities from seeking care. For people detained in detention facilities, they are completely dependent on the government for their conditions and medical care and we must ensure we are able to keep them safe. For all immigrants, we should ensure they do not prioritize fulfilling their government mandated, court-related requirements over following public health recommendations to stay home or practice social distancing.

In light of these concerns, we ask the Department to take swift and immediate action on the following requests to preserve public health:

- 1. Place a moratorium on immigration arrests for people who pose no significant public safety risk to further reduce the detention population.** DHS should also issue a formal public statement to affirm that ICE nor CBP will not perform any enforcement action at hospitals, health providers, public health partners, or social service agencies.
- 2. Notify all parties that may have been exposed to any individual who has been infected with coronavirus through contact with any DHS employee or exposure in any DHS facility.** In particular, we encourage you to notify any person who was exposed to the USCIS Seattle Field Office and Elizabeth Detention Center employees who tested positive for COVID-19. In regards to the USCIS Field Office employee, we understand that this employee was exhibiting symptoms but attended work for three days before the office was closed. At the time of writing, there has been no notice to anyone outside of DHS who may have been exposed to either employee.

3. **Immediately heed the advice of public health experts<sup>1</sup> and release as many immigrants as possible from detention.** Detained individuals should be released on reasonable bond, through parole, or through alternatives to detention programs in order to decrease the overall population, reduce the number of people in overcrowded facilities, and mitigate further spread of the virus.
4. **Prioritize releasing those over 50 and those with underlying health conditions and are particularly vulnerable to the virus, so as to avoid a public health catastrophe for those who are detained and the broader community.** The Centers for Disease Control and Prevention recommends these populations take extra care to stay home, avoid crowds, and limit contact since they are at higher risk of getting very sick from COVID-19.<sup>2</sup>
5. **Take immediate steps to prevent a COVID-19 outbreak in immigration detention facilities,** where immigrants are held in extremely close quarters contrary to public health guidelines. Any outbreak puts the health of the entire detained population at risk and could easily spread to the outside community due to guards and detention employees leaving the facility after their shifts. Such an outbreak could put extreme strain on local health care facilities, especially in rural areas where so many detention centers are located. Public health experts have called for down-sizing of jail and prison facilities, and localities across the country have begun this practice.<sup>3</sup>
  - a. Consult with public health and medical professionals, including local public health agencies, to implement best practices for managing the spread of infection within populations in DHS custody, both in Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP), while maintaining access to confidential legal counsel, visitation, and upholding human rights;
  - b. For those remaining in detention, DHS should:
    - i. Ensure that everyone in DHS custody receives flu vaccines using an opt-out modality;
    - ii. Screen staff reporting to work to check for fever, cough, shortness of breath, recent travel to a high-risk country, or exposure to someone symptomatic or under surveillance for COVID-19. Staff with at least two of the aforementioned risk factors should be sent home;
    - iii. Perform routine environmental cleaning of all frequently touched surfaces;

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<sup>1</sup> Katherine Shoichet, *CNN*, “Doctors warn of ‘tinderbox scenario’ if coronavirus spreads in ICE detention,” Mar. 20, 2020, <https://www.cnn.com/2020/03/20/health/doctors-ice-detention-coronavirus/index.html>.

<sup>2</sup> Centers for Disease Control and Prevention, *If You Are At Higher Risk (Page last reviewed Mar. 12, 2020)* <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html>

<sup>3</sup> Marc F. Stern, MD, MPH, *Washington State Jails Coronavirus Management Suggestions in 3 “Buckets,”* Washington Association of Sheriffs and Police Chiefs (Mar. 5, 2020) <https://waspc.memberclicks.net/assets/docs/suggestions%20for%20jails%20%203.5.20.pdf> Salvador Hernandez, *Los Angeles is Releasing Inmates Early and Arresting Fewer People Over Fears of Coronavirus in Jails*, BuzzFeed News (Mar. 16, 2020) <https://www.buzzfeednews.com/article/salvadorhernandez/los-angeles-coronavirus-inmates-early-release>

- iv. Remove barriers to good infection control for individuals in custody including by providing access to soap and paper towels, cleaning supplies to allow detained individuals to clean their quarters regularly, as well as allowing individuals to seek medical attention when requested, and stopping overnight security checks to encourage sleep and wellness;
- v. Waive all costs associated with soap or other hygiene products;
- vi. Ensure medical facilities are prepared with fully-staffed medical professionals, personal protective equipment, soap, hand sanitizer, and cleaning supplies;
- vii. Ensure any individual who must be quarantined is quarantined at a hospital or medical facility, rather than inside the detention center;
- viii. Waive fees or charges for phone or video calls to family and friends outside detention;
- ix. Ensure continued access to legal representation, maintaining in-person contact as much as possible and allow for flexible deployment of telephonic and video access for attorney visits, know your rights, and legal orientation programming.

**6. Issue formal, proactive and explicit public communication to ensure immigration deadlines and practices are excused or relaxed for the period that a public health emergency is in effect in a particular locality or state, including:**

- a. Work authorization or non-immigrant status documents (such as DACA and TPS) for people who cannot renew. DHS should automatically renew such status or work authorization for the same time period as the individual's prior status or work authorization;
- b. In-person ICE check-ins, including in-person check-ins for individuals enrolled in alternative to detention programming such as ISAP.
- c. DHS should not seek in absentia orders when individuals do not appear for an immigration court hearing during and in the months following the worst of the pandemic, and should instead move to continue.
- d. Relax deadlines for all petitions and applications including but not limited to:
  - i. One-year deadline for asylum applications;
  - ii. Requirements for filing I-751 (petition to remove conditions of residence);
  - iii. Responding to USCIS requests for evidence (RFEs), as well as Notice of Intent to Deny (NOIDs) and Notice of Intent to Reject (NOIRs);
  - iv. Adjustment, regulatory, and administrative deadlines including but not limited to:
    - 1. Deadlines for adjustment applications for U and T visa holders
    - 2. Deadlines to file I-290Bs (Motions before Administrative Appeals Office)
    - 3. Widower petitions
    - 4. VAWA self-petitions
- v. Tolling of age-out situations including but not limited to:
  - 1. Family-based petitions

2. Special Immigrant Juvenile Status
  3. Violence Against Women Act (VAWA) self-petitions for children
  4. U-Visa applications for derivative children
  5. Asylum applications for derivative children;
- e. Protect individuals from tolling any accrual of unlawful presence during the public health emergency;
  - f. Delay all interviews including but not limited to:
    - i. Interviews for I-751 petitions;
    - ii. Home visits in family-based application for adjustment case
  - g. Consider flexibility in school reporting requirements and unemployment limits for international students and scholars including but not limited to:
    - i. Optional practical training (OPT) filing window and deadline;
    - ii. Consider students taking full course of study online due to a school's COVID-19 adaptation including but not limited to:
      1. Allow students to apply for OPT while they are physically present outside the United States;
      2. Allow consideration for a student, scholar, or dependent to have continuously maintained their F, M, or J status for purposes of future eligibility;
2. **Uphold our humanitarian commitment to asylum seekers presenting themselves at the border by instituting additional health screenings for asylum seekers, including individuals currently subject to the Migrant Protection Protocol.** CBP should expeditiously work to parole asylum seekers into the country where they will be able to remain in the community until their next court hearing, with the ability to practice social distancing and seek access to medical care if needed. Allow passage through CBP checkpoints within 100 miles of the border to ensure undocumented individuals living in border communities are not segregated from crucial medical care in the interior.
  3. **Reconsider the implementation of the *Inadmissibility on Public Charge Grounds* final rule.** While USCIS has taken action on this already, we believe a more explicit statement must be issued that the Rule is stayed pending successful containment of COVID-19, and that clarifies that enrollment in Medicaid during the COVID-19 crisis, and the use of Medicaid services for any purpose, as well as SNAP and housing related assistance will not be deemed a “public benefit” under the Public Charge Rule throughout the duration of the pandemic. the statement is not sufficient. As individuals do not only enroll in Medicaid for specific symptoms, there continues to be confusion and fear.

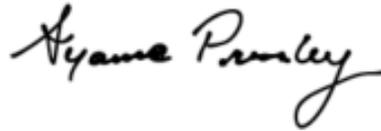
COVID-19 does not discriminate based on nationality, citizenship status, or any other characteristic, and our federal agencies must respond accordingly. We thank you for your prompt attention to these matters, and request a response as to the status of these requests by March 31, 2019. The health and safety of our entire nation will suffer if we fail to protect every person in the country.

Sincerely,



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PRAMILA JAYAPAL  
Member of Congress



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AYANNA PRESSLEY  
Member of Congress



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JOAQUIN CASTRO  
Member of Congress



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JESÚS G. "CHUY" GARCÍA  
Member of Congress



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VERONICA ESCOBAR  
Member of Congress



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ADAM SMITH  
Member of Congress

**OUTSTANDING QUESTIONS AND SUGGESTED RESPONSES**

1. Whether DHS is testing detainees for COVID-19, and, if so:
  - a. what testing protocol DHS is using;
  - b. when the testing began;
  - c. how many detainees have been tested and in which facilities; and
  - d. how many of the tested detainees in each facility tested positive for the virus how many tested negative, and how many had test results that were inconclusive?

(b) (5)

2. How DHS will house or quarantine presumptive or confirmed cases of COVID-19 to protect both high risk and otherwise healthy detainees and staff from contracting the virus?

(b) (5)

3. What medical care DHS will provide to detainees with presumptive or confirmed cases of COVID-19?

(b) (5)

4. How DHS will collect data and keep records on detainees with presumptive or confirmed cases of diagnosed COVID-19?

**(b) (5)**

5. What steps DHS will take to reduce overcrowding in DHS facilities and free up space for effective quarantines of sick detainees, including by reducing the number of migrants detained unnecessarily?

**(b) (5)**

6. How DHS will ensure that detainees will be able to receive meaningful access to their attorneys even if the detainee or the facility is subject to quarantine procedures or take other steps to ensure their cases are not prejudiced by limited access to their attorneys should this occur?

**(b) (5)**

7. Whether and how DHS is coordinating with state and local governments on COVID-19 matters in areas where detention facilities are located?

**(b) (5)**

8. How DHS will address the potential spread of coronavirus in its detention facilities?

(b) (5)

9. What steps DHS will take to remove barriers to immigrants receiving testing or treatment for COVID-19, including whether DHS will suspend the public charge rule for immigrants using public benefits to seek testing or treatment for COVID-19?

(b) (5)

10. What, in detail, is the contingency plan for getting detainees the appropriate medical care if local healthcare systems become overwhelmed and unable to absorb detainees?

(b) (5)

11. What guidance has been shared by ICE and CBP with contractor facilities regarding COVID-19?

(b) (5)

12. Have ICE or CBP established a plan with FEMA or the DOD for contingency facilities in case of an outbreak?

(b) (5)

13. What steps are ICE and CBP taking specifically to ensure increased access to telephone communications by detainees while social visits are suspended and in how many facilities is increased access being implemented?

(b) (5)

**14. How many ICE and CBP detainees are in the “high-risk for severe illness” group which, as stated by the CDC, includes those ages 65 and older, people with chronic lung disease or moderate to severe asthma, those who are immunocompromised, those with severe obesity, or those that are pregnant?**

**(b) (5)**

**15. What is the process for “scrubbing” detainees to be released from custody; what factors determine a detainee’s ability to be scrubbed for release; how many detainees are being scrubbed; how many have been released under this process?**

**(b) (5)**

**16. Is DHS granting parole requests or other similar measures to reduce the detainee population and mitigate the spread of COVID-19?**

**(b) (5)**

**17. Whether DHS will release the large number of migrants in their custody who would not have been arrested under the reduced arrest criteria announced for COVID-19?**

**(b) (5)**

**INFORMATION ALREADY PROVIDED TO THE COMMITTEE ON FRIDAY, APRIL 10, 2020**

**1. What PPE has been rolled out to the field in each sector/field office? (Everyone has X on their person, etc.)**

CBP is taking extensive precautions to minimize the risk of COVID-19 exposure to our workforce and members of the public with whom we interact. All of CBP's operational offices have a 30 day supply of personal protective equipment or PPE including gloves, masks, Tyvek coveralls, and hand sanitizer; these are located locally across all Field Offices, Sectors, and Air Branches, and CBP has additional supplies in reserve to be distributed on an as-needed basis. CBP continues to work with DHS and the CDC to monitor global supply chain impacts and project critical PPE needs for the CBP workforce. The CBP Senior Medical Advisor also provides consultation and guidance regarding instances of potential exposure and positive cases.

**2. What policies and direction have been implemented for the use of that equipment?**

Through the CBP Senior Medical Advisor and CBP Occupational Safety and Health office, CBP has developed COVID-19 guidance for supervisors and employees with recommended actions based on exposure risk. CBP also has provided guidance to all of its employees regarding the risk-based use of PPE. The PPE guidance includes recommendations regarding the use of nitrile gloves, N95 respirators, eye protection, disposable outer garments, and other equipment based on infectious disease risks, job functions, and job settings. CBP has also issued comprehensive sanitary guidance to its facilities specifically to prevent the spread of COVID-19. CBP has developed a COVID-19 Resource Portal where employees can find relevant health and safety information. In addition, CBP has also issued comprehensive sanitary guidance to its facilities on preventing the spread of COVID-19.

**3. What is the protocol for encountering and processing someone from an effected country?**

All CBP ports of entry are following protocol consistent with the presidential proclamations restricting travel and from the Department of Homeland Security. With exceptions specified in the proclamations, foreign nationals who have been physically present in mainland China, Iran, Ireland, the United Kingdom or the Schengen Area within 14 days of their arrival at a U.S. port of entry will be denied entry into the United States. The proclamations include exceptions for immediate family members of U.S. citizens, lawful permanent residents, flight crew and certain other travelers.

Additionally, any traveler exempted from the proclamations who has been anywhere in mainland China, Iran, Ireland, the United Kingdom or the Schengen Area within 14 days of their return or who exhibits symptoms of COVID-19 will be referred to DHS medical contractors or the CDC for enhanced health screening.

Effective on March 20, 2020 at 11:59 PM EST, CBP has also implemented HHS's authority under 42 U.S.C. § 265 to prohibit entry of certain persons into the United States and prevent the spread of COVID-19. Our priority is to reduce exposure of COVID-19 to the American people and CBP personnel by prohibiting the entry of possibly infected individuals. CBP is

complying with the CDC Order and suspending the introduction of all individuals without proper travel documents or otherwise subject to travel restrictions who seek to enter the United States at and between POEs, coming from or transiting through Canada or Mexico. Aliens will be expeditiously returned to their country of last transit – Canada or Mexico. When such a return is not possible, the US Government will return these aliens to their country of origin.

To help prevent the introduction of COVID-19 into our border facilities and into our country, aliens subject to the order *at ports of entry* will not be held in congregate areas for processing and instead will immediately be turned away. Those encountered *between ports of entry* after illegally crossing the border similarly will not be held in congregate areas for processing and instead, to the maximum extent feasible, will immediately be returned to their country of last transit.

Finally, as a result of the COVID-19 pandemic, the United States and Canada, as well as the United States and Mexico, are temporarily restricting all non-essential travel across its borders. Each country is encouraging their people to exercise caution by avoiding unnecessary contact with others. “Non-essential” travel includes travel that is considered tourism or recreational in nature.

#### **4. What quarantine options are being considered in case there’s an outbreak in custody?**

CBP is utilizing the HHS authority described above under 42 U.S.C. § 265 to prohibit entry of certain persons into the United States and prevent the spread of COVID-19. Consistent with longstanding CBP procedures, individuals apprehended by U.S. Border Patrol between ports of entry with symptoms of illness are referred to the CDC or local health officials for enhanced health screening. Additionally, all persons in CBP custody who meet the CDC’s COVID-19 travel history and enhanced screening guidelines are being referred to the CDC for additional screening.

CBP continues to follow the relevant provisions in CBP’s National Standards on Transport, Escort, Detention, and Search (TEDS) related to preventing/addressing the possible spread of contagious diseases. More specifically, provision 4.10 of TEDS states the following:

Contagious Disease: If an officer/agent suspects or a detainee reports that a detainee may have a contagious disease, the detainee should be separated whenever operationally feasible, and all other appropriate precautions must be taken and required notifications made, according to the operational office’s policies and procedures.

**CBP COVID-19 Response: Suspension of Entries and Imports  
Concept of Operations  
March 20, 2020**

**INTRODUCTION**

U.S. Customs and Border Protection (CBP) is supporting the U.S. Government's response to SARS-CoV-2 and the disease it causes, named "coronavirus disease 2019" (abbreviated "COVID-19"), which has since spread to 118 countries and regions worldwide. The Director of the Centers for Disease Control and Prevention (CDC) has determined to use his authority under Section 362 of the Public Health Service Act, 42 U.S.C. § 265, to prohibit the introduction of certain persons into the United States who, due to the existence of COVID-19 in countries or places from which persons are traveling, create an increase in the serious danger of the introduction of such disease into the United States. The CDC Director has further asked, in CDC's *Order Suspending Introduction Of Persons From A Country Where A Communicable Disease Exists* (March 20, 2020), scheduled to be published in the Federal Register on March 24, 2020 (the CDC Order), that CBP aid in the enforcement of this order, pursuant to 42 U.S.C. § 268(b).

**SCOPE**

The CDC order applies to all persons traveling from Canada or Mexico (regardless of their country of origin) who would otherwise be introduced into a congregate setting in a land port of entry (POE) or Border Patrol station at or near the United States border with Canada or Mexico, subject to exceptions detailed in the order. The order does not apply to U.S. citizens and lawful permanent residents, members of the armed forces of the United States and associated personnel (including their spouses and children), persons from foreign countries who hold valid travel documents and arrive at a POE, or persons from foreign countries in the visa waiver program who are not otherwise subject to travel restrictions and arrive at a POE. Additionally, the order does not apply to persons who customs officers of DHS determine, with approval from a supervisor, should be excepted based on the totality of the circumstances, including consideration of significant law enforcement, officer and public safety, humanitarian, and public health interests. DHS will consult with CDC concerning how these types of case-by-case, individualized exceptions will be made to help ensure consistency with current CDC guidance and public health assessments.

Implementation of the CDC order requires expeditious expulsion of persons subject to the order, which means the return of all such aliens to the country from which they came, or their country of origin, or another country as practicable, as rapidly as possible, with as little time spent in Border Patrol stations, POEs, and other congregate settings as practicable under the circumstances.

The CDC order applies for 30 days and may be extended by the CDC director in the interest of the public health. The CDC order does not apply to lawful permanent residents of the United States and aliens with valid visas or travel documents who are not otherwise subject to COVID-19 proclamations.

In assisting CDC with implementing the order, CBP is operating pursuant to 42 U.S.C. § 268(b), aiding CDC in the enforcement of its authority pursuant to 42 U.S.C. § 265, 42 C.F.R. § 71.40, and the Interim Final Rule *Control of Communicable Diseases; Foreign Quarantine: Suspension of Introduction of Persons into United States from Designated Foreign Countries or Places for Public Health Purposes*, scheduled to be published in the Federal Register on March 24, 2020. In connection with expelling an alien in the course of enforcing the CDC order, CBP is not operating according to the authorities and procedures ordinarily applicable under Titles 8 or 19. However, CBP officers and agents may rely on their training and experience in detecting, apprehending and determining whether persons are subject to the CDC order, including but not limited to the following considerations: physical observation, use of sensors and technology, physical indicators and tracking techniques, information from third-parties, and deductive techniques.

## **IMPLEMENTATION**

The following outlines CBP's anticipated execution of the CDC Order. The proposal distinguishes between encounters made at ports of entry by Office of Field Operations (OFO) and those made between POEs by the United States Border Patrol (USBP), includes different courses of action based on unknown factors, and notes inter-agency requirements to execute the implementation. CBP may revise this implementation plan from time to time, in consultation with CDC, to ensure that the CDC Order is being effectively implemented.

### ***Determining whether a person is subject to the CDC order***

- The CDC order applies to all aliens seeking to enter the United States, on or after the date of the order, without proper travel documents or otherwise subject to travel restrictions at land POEs, or between the POEs, coming from or transiting through Canada or Mexico (regardless of their country of origin), who are encountered at or approaching a POE or near the border in the area of operation of a Border Patrol station operated by CBP. For the purposes of the CDC order, Border Patrol shall apply this to any alien subject to the order who is apprehended within its normal area of operations along or adjacent to the border in each Border Patrol sector.
  - Based on training, experience, physical observation, technology, questioning and other considerations, if a CBP officer or agent believes that it is more likely than not that a person is an alien seeking to enter the United States without a proper visa or travel document, is otherwise subject to travel restrictions, or is seeking to enter or has entered between POEs, coming from or transiting through Canada or Mexico (regardless of their country of origin), and if such an alien was encountered near the border within the area of operation of a Border Patrol station or at a land POE operated by CBP, the CBP officer or agent shall apply the CDC order to the alien in accordance with the procedures below.
- Exceptions:
  - The CDC order does not apply to individual aliens who a CBP officer or Border Patrol agent determines, with approval from a supervisor, should be excepted based on the totality of the circumstances, including consideration of significant law enforcement, officer and public safety, humanitarian, or public health interests. If

this exception is applied, then CBP will process the person in accordance with ordinary procedures but with sufficient safeguards for personnel.

- Aliens who affirmatively and plausibly claim a reasonable fear of torture in the country to which they will be sent will be segregated and referred to U.S. Citizenship and Immigration Services for assessment.
- DHS shall consult with CDC staff concerning how these exceptions will be applied.

### *Implementation Between Ports of Entry*

#### *Processing*

- Once CBP determines an alien is subject to the CDC Order, agents in the field, to the extent practical, will manually capture a subject's biographical information on (b) (7)(E) (b) (7)(E) and archive that data in the appropriate CBP database for future recall/inquiries.
- To the extent practical, CBP will (b) (7)(E) while performing immigration and criminal history checks in real-time prior to making (b) (7)(E) (b) (7)(E)

#### *Temporary Holding*

- Current CBP facilities are not able to provide isolation or quarantine requirements that would prevent the transfer of COVID-19 and protect the U.S. public.
- In spite of CBP facilities not being able to provide isolation or quarantine requirements, CBP will separate and isolate to the greatest extent possible, if temporary holding is required prior to expulsion.
- CBP will leverage existing medical contracts for health interview purposes, upon consultation with CDC and contract medical experts. Migrants exhibiting signs of overt illness will be referred to a local medical facility for appropriate treatment.
- CBP will follow existing protocols and coordinate with CDC to have personnel or officers of the United States Public Health Service onsite or available telephonically to answer questions and provide information.

#### *Transportation*

- Aliens covered by the order who are amenable to immediate expulsion to Mexico or Canada will be transported to the nearest POE and immediately returned to Mexico or Canada.
- Aliens covered by the order who are not amenable to immediate expulsion to Mexico or Canada will be transferred to available temporary processing locations at or near flight locations to be returned to their country of citizenship.
- CBP will have dedicated transportation vehicles with separation between agents and subjects encountered to minimize employee exposure to subjects with potential COVID-19 infection.

#### *Expulsions*

- CBP relies on interagency partners, as defined in the COAs below, to effect expulsions under HHS authorities.

- Key to preserving the objective of protecting public health and limiting individual exposure is the need to effect immediate expulsions. The implementation plan accounts for uncertain cooperation from neighboring countries to accept returns of aliens and the additional resources and interagency coordination required to execute.



### *Implementation at Ports of Entry*

#### *In General*

- POEs will, consistent with applicable restrictions, continue to accept aliens with proper travel documents and otherwise admissible for cross border traffic and trade/travel.
- Aliens covered by the order who are amenable to immediate expulsion to Mexico or Canada will be immediately returned to Mexico or Canada.
- Aliens covered by the order who are not amenable to immediate expulsion to Mexico or Canada will be transferred to ICE/ERO. ICE/ERO will take custody of any alien and follow established procedures with assistance from Department of State to negotiate returns to include waived manifest and travel documents requirements.
- Officers at POEs will utilize appropriate force protection and minimize potential exposure during operations involving national interest trade/travel.
- At ports that currently utilize queue management, CBP will suspend or reduce routine queue management procedures at the limit line for those who appear to lack proper travel documents, given the CDC order, as well as those subject to Presidential Proclamations pursuant to INA 212(f). CBP will also significantly curtail non-criminal enforcement activities due to the risks to individuals in custody associated with the spread of COVID-19.
- CBP will follow existing protocols and coordinate with CDC to have personnel or officers of the United States Public Health Service onsite or available telephonically to answer questions and provide information.
- CBP personnel will actively deter and prevent, as authorized under the use of force policy or temporary amendment of the use of force policy, the illegal entry of any subject into the United States.

#### *Southern Border Ports of Entry*

- CBP personnel working at southern border ports of entry will take the following actions:
  - Coordinate with the Government of Mexico to control flow of travelers approaching U.S. border and streamline the return of aliens.
    - Lift restrictions to current repatriation agreements to allow for 24/7 return of aliens.
  - Suspend or reduce routine queue management procedures at the limit line for those who appear to lack proper travel documents, as well as those subject to Presidential Proclamations pursuant to INA 212(f).

- Screen individuals at pre-primary when operationally feasible.
- Permit entry into POEs by travelers who appear to have proper travel documents and who are not otherwise subject to travel restrictions.
- Limit the number of open vehicle primary lanes, as appropriate, to maintain operational control of all travelers seeking entry to the United States.
- CBP officers will actively deter and prevent, as authorized under the use of force policy or temporary amendment of the use of force policy, the illegal entry of any subject into the United States.
  - CBP will utilize appropriate force protection and minimize potential exposure during operations involving national interest trade/travel.
- Leverage health interview procedures for CBP apprehensions to expedite repatriation of aliens subject to the CDC Order.
- With regard to aliens governed by the CDC order who enter a POE notwithstanding the above security measures, such as bypassing pedestrian lanes and entering the United States in a vehicle, the CDC order expulsion procedures apply consistent with guidance.
- If an alien enrolled in MPP has a case reset by EOIR, the alien appearing at the POE for their scheduled hearing will be provided an updated Notice of Hearing and a tear sheet with instructions detailing the date and time to appear for their new hearing. ICE will furnish these updated notices to OFO for delivery to the aliens at the port, and with respect to aliens who do not appear, OFO will annotate the notice to indicate that the alien did not appear, and sign and return each of those notices to ICE for next steps in immigration court.

*Northern Border Ports of Entry*

- CBP personnel working at Northern border ports of entry will take the following actions:
  - Coordinate with Government of Canada to control flow of travelers approaching U.S. border and streamline the return of aliens to Canada.
    - Lift restrictions to current repatriation agreements to allow for 24/7 return of aliens.
  - Screen individuals at pre-primary when operationally feasible.
  - Permit entry into POEs by travelers who appear to have proper travel documents and who are not otherwise subject to travel restrictions.
  - Limit the number of open vehicle primary lanes, as needed to maintain operational control of all travelers seeking entry to the United States
  - CBP Directors of Field Operations (DFOs) reserve the right, based on local operational constraints, to limit the flow of traffic via queue management, in accordance with existing CBP guidance and as explained above.
    - May close or further limit hours at Class B locations (b) (7)(E)
  - CBP officers will actively deter and prevent, as authorized under the use of force policy or temporary amendment of the use of force policy, the illegal entry of any subject into the United States.
    - CBP will utilize appropriate force protection and minimize potential exposure during operations involving national interest trade/travel.

- Leverage health interview procedures for CBP apprehensions to expedite repatriation of aliens subject to the CDC Order.
- With regard to aliens governed by CDC order who enter a POE notwithstanding the above security measures, such as bypassing pedestrian lanes and entering the United States in a vehicle, the CDC order expulsion procedures apply consistent with guidance.

(b) (5)

(b) (5)