

April 16, 2020

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Charles Schumer
Majority Leader
322 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Kevin McCarthy
Republican Leader
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Mitch McConnell
Republican Leader
317 Russell Senate Office Building
Washington, D.C. 20510

Dear Speaker Pelosi, Majority Leader Schumer, Leader McCarthy, and Leader McConnell:

We write to express our support for the Federal Immigrant Release for Safety and Security Together Act (FIRST Act). This Act provides urgent and critical restrictions on immigration detention and enforcement during this unprecedented national public health emergency. Even as public health experts urgently call for the Department of Homeland Security to curtail enforcement and engage in massive releases of those facing civil detention, the agency continues its immigration enforcement and detention activities. These actions risk the lives of tens of thousands of immigrants who remain in custody and present significant broader public health risks as ICE and facility staff come and go from the facilities. The protections and procedures mandated in this Act reduce unnecessary detention levels and civil immigration enforcement activity to protect the health of not only those held in custody, but all of our communities.

Even before the onset of the COVID-19 pandemic, ICE has proven to be incapable of providing for the basic needs of people in custody. Numerous reports document ICE's record of failing to provide adequate soap and other hygiene products, at times even failing to provide hot water.¹ And there is a well documented history of medical abuse and neglect in immigration detention centers.² Further, ICE has a history of mismanaging outbreaks of infectious diseases in the past.³

¹ U.S. Department of Homeland Security Office of the Inspector General, "Concerns about ICE Detainee Treatment and Care at Four Detention Facilities," Jun. 3, 2019, <https://www.oig.dhs.gov/sites/default/files/assets/2019-06/OIG-19-47-Jun19.pdf>.

² Human Rights Watch, "Code Red: The Fatal Consequences of Dangerously Substandard Medical Care in Immigration Detention," Jun. 20, 2018, <https://www.hrw.org/report/2018/06/20/code-red/fatal-consequences-dangerouslysubstandard-medical-care-immigration>; American Civil Liberties Union, Detention Watch Network, and National Immigrant Justice Center, "Fatal Neglect: How ICE Ignores Deaths in Detention," Feb. 2016, <https://www.detentionwatchnetwork.org/sites/default/files/reports/Fatal%20Neglect%20ACLU-DWN-NIJC.pdf>.

³ See Morbidity and Mortality Weekly Report: Notes from the Field (Vol. 68, No. 34), Jessica Leung, Diana Elson, Kelsey Sanders, et al, Centers for Disease Control and Prevention, "Mumps in Detention Facilities that House

Since the onset of the COVID-19 pandemic, ICE has continued this pattern of failing to provide for the basic needs of the people in its custody, and in some cases, has exacerbated the threat of COVID-19 through mismanagement, retaliation, and abuse.⁴ For example, on March 23, guards at the South Texas ICE Processing Center in Pearsall, Texas pepper-sprayed approximately 60 people detained in the facility when they refused to return to their beds and called for ICE to release them due to concerns over contracting COVID 19.⁵ ICE then moved nine people who participated in the protest to restricted housing and said they would be punished with “disciplinary charges due to security violations.”⁶ This Act responds to these appalling abuses with appropriate restrictions on detention and enforcement activity.

First, the Act requires (with some exceptions) the release of all individuals in immigration custody who are at heightened risk of vulnerability to COVID-19 because of age or pre-existing medical conditions. Public health experts have spoken resoundingly to the risks that crowded detention facilities and jails pose to rapid COVID-19 spread and the heightened health risks these specific populations face. This provision of the Act responds appropriately to unrefuted public health warnings in this time of crisis to protect individuals in custody, government officials, and the public.

Second, this Act goes a step further in protecting public health and safety by requiring a presumption of release for all other individuals currently in DHS custody, including those subject to mandatory detention. Specifically, the bill requires DHS to review the files of all persons in custody and authorizes release unless DHS can meet a high evidentiary standard justifying continued detention. There is no justification for the continued detention of any person for civil enforcement measures given the emergent nature of the COVID-19 pandemic and the grave risk to those behind bars.

Third, the Act ensures that DHS provide basic health and sanitary supplies and telephonic access to those who remain in custody. Specifically, the Act requires that DHS provide essential items including soap and hand sanitizer and free access to telephone communications with loved ones and counsel. This ensures that even as DHS takes steps to release the people in custody, it also

Detained Migrants — United States, September 2018–August 2019, ” Aug. 30, 2019, <https://www.cdc.gov/mmwr/volumes/68/wr/pdfs/mm6834a4-H.pdf>.

⁴ “We are Adrift, About to Sink: the Looming COVID-19 Disaster in United States Immigration Detention Facilities.” Amnesty International USA. April 2020.

<https://www.amnesty.org/download/Documents/AMR5120952020ENGLISH.PDF>

⁵ Foster-Frau, Silvia. “Detained migrants pepper-sprayed for protesting amid coronavirus fears.” San Antonio Express News. March 24, 2020.

<https://www.expressnews.com/news/us-world/border-mexico/article/Detained-migrants-pepper-sprayed-for-rioting-amid-15154870.php>

⁶ Ibid.

immediately heeds the advice of public health experts to avoid virus transmission within detention facilities and treats individuals with basic human decency.

Finally, this Act requires ICE to suspend interior civil immigration enforcement during the course of the COVID-19 pandemic except in certain limited circumstances, and specifically prohibits enforcement in sensitive locations, including medical facilities and other places that offer vital assistance. This critical measure ensures that ICE will not deter immigrant communities from seeking lifesaving care and stems the inflow of individuals coming into custody at a time when enforcement of civil immigration laws poses real and dangerous risks to our collective health.

The undersigned groups persist in our calls for the release of people from detention and to entirely suspend civil immigration enforcement in light of the gravity of the pandemic's impact. We are grateful for the leadership of Representative Pramila Jayapal and Senator Cory Booker in introducing this bill, which is a vital step toward ensuring that everyone in our communities are protected during the COVID-19 pandemic. Even without the immediate threat of COVID-19, current levels of ICE detention are unsustainable and unnecessary, to immense financial and moral cost. We hope that this current moment provides an opportunity to work together to both protect our communities and critically examine the inherently arbitrary and deadly nature of our system of mass immigration detention.

For further information, please contact Sarah Gardiner at Freedom For Immigrants, sgardiner@freedomforimmigrants.org, or Nayna Gupta at the National Immigrant Justice Center, ngupta@heartlandalliance.org.

Sincerely,

Action NC

Adhikaar

Advancement Project, National Office

Advocate Visitors with Immigrants in Detention (AVID) in the Chihuahuan Desert

Advocates for Immigrant Rights & Reconciliation

Al Otro Lado

ALDEA - The People's Justice Center

Alianza Americas

Alianza Nacional de Campesinas

American Friends Service Committee, Colorado

American Muslim Empowerment Network

Americans for Immigrant Justice

Amnesty International USA
Asian Americans Advancing Justice | AAJ
Asylum Seekers Assistance Project
Bellevue SOT
Bend the Arc: Jewish Action
Bethel Presbyterian Church, Lackawanna NY
Black and Pink
Brooklyn Defender Services
Cameroon American Council
Cardozo Immigration Justice Clinic
Casa Latina
Center for Employment Training
Center for Gender & Refugee Studies
Center for Law and Social Policy (CLASP)
Center for Popular Democracy
Center for Victims of Torture
Central Washington Justice For Our Neighbors
Centro de los Derechos del Migrante, Inc.
Centro Legal de La Raza
Church of Our Saviour/La Iglesia de Nuestro Salvador
Church World Service
Cleveland Jobs with Justice
Coalition for Humane Immigrant Rights (CHIRLA)
Coalition on Human Needs
Colorado Immigrant Rights Coalition
Columban Center for Advocacy and Outreach
Columbia Law School Immigrants' Rights Clinic
Community Visions
Congregation of Our Lady of the Good Shepherd, U.S. Provinces
Courageous Resistance of the Desert
Daily Kos
Desert Supporters of Asylum Seekers
Detention Watch Network
Diocesan Migrant & Refugee Services, Inc.
Drug Policy Alliance
Earthjustice
End Domestic Abuse Wisconsin
Esperanza Immigrant Rights Project
Faith Action Network

Faith in New Jersey
Familia TQLM
First Friends of NJ & NY
First Parish Cambridge: Beyond Borders Sin Frontera
Franciscan Action Network
Freedom For Immigrants
Friends Committee on National Legislation
Friends of Miami-Dade Detainees
Government Accountability Project
Haitian Bridge Alliance
Health in Justice Action Lab, Northeastern University School of Law
Her Justice
HIAS
Hispanic Federation
Human Rights First
Human Rights Initiative of North Texas
Immigrant & Non-Citizen Rights Clinic - CUNY School of Law
Immigrant Allies of Marshalltown (Iowa)
Immigrant Legal Advocacy Project
Immigration Equality Action Fund
Indivisible
Indivisible Whidbey - RAIN
Interfaith Coalition on Immigration
International Refugee Assistance Project
Iranian American Bar Association
ISLA: Immigration Services and Legal Advocacy
Jewish Coalition for Immigrant Justice NW
Juntos
Just Neighbors
Justice For Our Neighbors Houston
Justice Strategies
Kentucky Coalition for Immigrant and Refugee Rights
Lafayette Urban Ministry Immigration Clinic
Latina Republic
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
Leadership Conference of Women Religious
Legal Aid Justice Center
LIFT
Los Angeles Center for Law and Justice

Los Angeles LGBT Center
Louisiana Advocates for Immigrants in Detention
Maine Coalition to End Domestic Violence
Massachusetts Law Reform Institute
Migrant and Immigrant Community Action Project
Migrant Center for Human Rights
National Advocacy Center of the Sisters of the Good Shepherd
National Asian Pacific American Women's Forum (NAPAWF)
National Association of Social Workers
National Center for Transgender Equality
National Council of Churches
National Immigrant Justice Center
National Immigration Law Center
National Iranian American Council
National Justice for Our Neighbors
National Korean American Service & Education Consortium (NAKASEC)
National Network for Immigrant & Refugee Rights
National Partnership for New Americans
Neighbors Link Community Law Practice
NETWORK Lobby for Catholic Social Justice
New Jersey Coalition to End Domestic Violence
New Mexico Immigrant Law Center
New Sanctuary Coalition
New York Immigration Coalition
Next100
North Carolina Justice Center
Northern Illinois Justice for Our Neighbors
Northwest Immigrant Rights Project
Oak Grove Church of God
OCA-Asian Pacific American Advocates
Ohio Immigrant Alliance
Ohio Poor People's Campaign: A National Call for Moral Revival
Operation Restoration
Organizacion en California de Lideres Campesinas, Inc.
Oxfam America
PCUN, Oregon's Farmworker Union
Peace Action Group of PlymouthChurchSeattle UCC
People's Action
Physicians for Human Rights

Poder Latinx
Prisoners' Legal Services
Project On Government Oversight
Project South
Public Counsel
Public Justice, PC
Quixote Center
Reformed Church of Highland Park Affordable Housing Corp
Rian Immigrant Center
Rocky Mountain Immigrant Advocacy Network (RMIAN)
Rutgers Presbyterian Church
San Antonio Region Justice For Our Neighbors
Sanctuary DMV
Santa Fe Dreamers Project
Seattle Immigrant Rights Action Group
Seattle Interfaith Migrant Rights Network
Service Employees International Union (SEIU)
Sisters of Mercy of the Americas Justice Team
Sound Alliance- King and Pierce Counties, Washington State
Southern Border Communities Coalition
Southwest Youth and Family Services
Southwestern Law School Removal Defense Clinic and Pro Bono Removal Defense Program
Still Waters Anti-trafficking Program
SYL Foundation
TASSC International
Temple Beth Am Immigrant Justice Action Team
The Advocates for Human Rights
The Florence Immigrant & Refugee Rights Project
The Leadership Conference on Civil and Human Rights
The Sikh Coalition
Transformations CDC
Union for Reform Judaism
Unitarian Universalist Service Committee
United Stateless
United We Dream
University of Maryland Carey Immigration Clinic
Vashon Island Unitarian Fellowship
Vashon-Maury SURJ
Violence Free Colorado

Wallingford Indivisible
Washington Census Alliance
Washington Defender Association
Washington Immigrant Solidarity Network
Washington Office on Latin America
Washington State Religious Campaign Against Torture
Washington State Labor Council
Western Washington Fellowship of Reconciliation
Witness at the Border
Women's Refugee Commission
Wyoming Coalition Against Domestic Violence and Sexual Assault
YMCA of Greater Houston
Young Center for Immigrant Children's Rights