

Hon. Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Avenue, SE
Washington, DC 20528

Tae Johnson
Acting Director
U.S. Immigration and Customs Enforcement
500 12th St. SW
Washington, D.C. 20536

August 16, 2021

RE: Request for urgent release of people in ICE custody – Pulaski County Jail, Illinois

Dear Secretary Mayorkas and Acting Director Johnson:

We write with regards to the Pulaski County Detention Center, and the recent news that Pulaski County officials have given notice to terminate the contract with the U.S. Immigration and Customs Enforcement (ICE) and will no longer detain people on behalf of ICE. The undersigned organizations welcome the decision to no longer hold people in immigration detention in this facility, which is marred with systemic abuse and substandard conditions. We write with urgency to demand that people in ICE custody are released from this facility, not transferred to other detention centers where they risk facing further abuses further away from legal representation and their families.

ICE must release people from detention, not transfer to other facilities

As this administration recognizes, “Prosecutorial discretion is an indispensable feature of any functioning legal system. The exercise of prosecutorial discretion, where appropriate, can preserve limited government resources, achieve just and fair outcomes in individual cases, and advance the Department’s mission of administering and enforcing the immigration laws of the United States in a smart and sensible way that promotes public confidence.”ⁱ

The use of such discretion is particularly appropriate as DHS decides who should be detained and for how long. DHS may release an individual who is placed in formal removal proceedings on bond, on their own recognizance, or under an order of supervision pending the outcome of those proceedings.ⁱⁱ ICE has the authority to determine whether a person can be released, and can utilize a number of options when deciding to release an individual from detention, including: releasing them on their own recognizance; releasing on Orders of Supervision (OSUP); requiring monetary bail; releasing an individual on parole.ⁱⁱⁱ

Moreover, transfers are a frightening and dehumanizing experience with deadly consequences during the pandemic.^{iv} Throughout the pandemic, ICE unnecessarily transferred people between facilities,^v creating new outbreaks inside jails and in surrounding communities.^{vi} ICE still has no apparent national vaccination strategy and COVID-19 outbreaks in ICE facilities continue to

surge.^{vii} As of August 13, 2021, 1,473 of the 25,304 people still detained by ICE have COVID-19 and are currently under isolation or monitoring.^{viii} This is an alarming increase from 332 active cases out of the 13,890 people in ICE detention at the end of February.^{ix} Transferring people to other ICE facilities at this time would put more people in detention and surrounding communities at risk as the highly transmissible Delta variant surges across the country.^x

Legal service providers, community groups, and immigrant rights organizations have warned against transfers of people in ICE detention to other facilities.^{xi} The practice of transferring people without notice to locations where they are deprived of access to their families and counsel is callous and unnecessary, especially when it is entirely within ICE's power and discretion to release them instead.

Legal and social service providers at the ready for those released in Illinois

The individuals detained at Pulaski have already endured hardships because of the deficient conditions described below; they should be given the opportunity to reside with their loved ones and communities while they continue their immigration court proceedings. A robust network of legal and social service providers throughout Illinois stand ready to support them in doing so.

The Interfaith Community for Detained Immigrants (ICDI) is a faith-based advocacy organization operating out of Chicago whose mission is to provide services and support to immigrants in detention and upon release. ICDI has committed to assisting any person detained at Pulaski who has no other resources in the form of community ties or support. ICDI's Chicago Immigrant Transit Assistance program operates out of the Chicago Greyhound Bus Station and regularly provides post-release support to those who are physically present at the Chicago Greyhound Station.

The Southern Illinois Immigrant Rights Project has capacity to assist with post-release support on short notice, and may be able to provide increased support with more advance time to coordinate with their local/regional network of volunteers.

The Illinois Coalition for Immigrant and Refugee Rights (ICIRR) works in partnership with the Illinois Department of Human Services and 60 partnering nonprofit organizations throughout the state to provide emergency assistance, language access services, case management, immigration legal services and referrals, and community education for immigrant households. In particular, ICIRR's Family Support Network engages volunteer teams to provide rapid response and referrals for immigrant families who are facing deportation-related circumstances.

The Illinois Access to Justice (A2J) program is funded by the Illinois Department of Human Services and co-convened by The Resurrection Project and Westside Justice Center. Through a statewide network of 59 community-centered organizations, A2J provides immigrants with legal services, accompaniment services and referrals for wrap-around social services, including assistance with COVID-related matters.

Everyone in ICE detention in Pulaski should be permitted to live in the safety of their homes and communities while navigating their court proceedings. For people released who do need social

services or case support, the aforementioned community-supported case management programs are available. Evidence-based studies consistently show that 90% of participants in such programs comply with obligations imposed by courts or agencies.^{xii} Rigorous analysis of federal data has also shown that over 80% of non-detained immigrants with completed or pending removal cases attend their court hearings, and 96% attend when they have representation.^{xiii} Importantly, community-based alternatives offer a framework for migration processing that keeps families together and makes all our communities safer.^{xiv}

Legal service providers in Illinois provide vital legal representation for thousands of people in detention throughout the state.^{xv} Across the country, however, pro bono legal service providers are stretched far beyond their limits, and representation rates for individuals in detention are far lower than for individuals who have been released or never detained.^{xvi} Transferring people to other detention facilities, thus, will only make it more difficult for them to find representation.

There is a history of abuse and lack of accountability in Pulaski County Jail

We welcome the decision to stop holding people in ICE detention in the Pulaski County Jail, which has a history of neglect and abusive practices.^{xvii} Most recently, in May 2021, the DHS Inspector General reported on violations of ICE detention standards that threatened the health, safety, and rights of people detained for ICE in Pulaski.^{xviii} The Inspector General found a lack of oversight for people detained in segregation and deficiencies in staff communication practices with people detained, among other violations.^{xix}

ICE inspections have repeatedly found that Pulaski fails to meet basic requirements for standards of care.^{xx} The pattern of neglect and impunity includes sexual abuse and harassment. The jail failed to meet standards in its March 2021 inspection, for example, including regarding the implementation of its Sexual Abuse and Assault Prevention and Intervention (SAAPI) Program.^{xxi} In 2018, a PREA audit for Pulaski found that the facility failed to meet a number of ICE's own standards regarding the handling of allegation of sexual abuse and assault.^{xxii}

Established pattern of abuse and lack of accountability throughout the ICE detention system

The abuses experienced in Pulaski County Jail are reflected throughout the ICE detention system. Therefore, it is vital that people are released from Pulaski County Jail, and not transferred to other facilities where they will face similar abuses, which are repeated with impunity in the vast network of ICE detention centers. Many of the undersigned organizations that represent and work with individuals who have been detained in Pulaski County Jail have documented a similar pattern of abuse in other facilities in the Chicago Area of Operations.^{xxiii}

There is extensive documentation of the systemic abuse and impunity that exists throughout the ICE detention system. Getting caught in the immigrant detention dragnet means exposure to immeasurable harm and potentially death.^{xxiv} The number of people who have died in ICE custody in 2020 is more than double the prior year.^{xxv} Sexual assault,^{xxvi} violent abuse,^{xxvii} medical neglect,^{xxviii} unsanitary conditions,^{xxix} and lockdowns^{xxx} are commonplace in ICE jails. The opaque web of intentionally corrupted contracts^{xxxi} and inspections^{xxxii} breed impunity for ICE and its contractors.^{xxxiii} Independent medical experts have repeatedly found that

approximately half of all deaths in ICE custody are attributable to medical negligence.^{xxxiv} Yet in the very same facilities where multiple deaths have occurred, egregious lapses in medical care and unconscionable delays in treatment persist.^{xxxv}

Conclusion: DHS must urgently release people held in ICE detention in the Pulaski County Jail and ensure people are not transferred to other facilities

DHS has the authority to immediately order the release from detention of every individual held in ICE custody in the Pulaski County Jail. The use of such discretion is particularly appropriate as local counties continue to end their detention agreements with ICE, and DHS is reviewing the detention system with an eye towards closing down facilities. It is imperative that people currently in ICE custody are released from this facility, not transferred to other detention centers where they risk facing further abuses further away from legal representation and their families. A robust network of legal and social service providers throughout Illinois stand ready to support them in doing so.

We await a response and we look forward to working with you to provide guidance to ensure that the rights of people in detention are upheld. If you have any questions or would like to discuss, please direct any response or inquiries to: Heidi Altman, Policy Director, National Immigrant Justice Center, at haltman@heartlandalliance.org; Julián Lalalde, Civic Engagement & Policy Analyst, National Immigrant Justice Center, at jlalalde@heartlandalliance.org; and Fred Tsao, Senior Policy Counsel, Illinois Coalition for Immigrant and Refugee Rights, at ftsao@icirr.org.

Sincerely,

Access Living
Arab American Action Network
Arab American Family Services
Asian Americans Advancing Justice
Bethany House of Hospitality
Binational Institute of Human Development
Brighton Park Neighborhood Council
Centro de Trabajadores Unidos-United Workers' Center
Centro Romero
Chicago Community and Workers' Rights
Chicago Religious Leadership Network on Latin America
Chicago Workers Collaborative
Coalition to Cancel the ICE Contract in McHenry County
Communities United
Council on American Islamic Relations - Chicago
Detention Watch Network
ELCA AMMPARO
Elgin Coalition for Immigrant Rights
Elgin Rapid Response
Elgin in Solidarity with Black Lives Matter

Enlace Chicago
Episcopal Diocese of Chicago
Erie Neighborhood House
FEDECMI/Casa Michoacán
Fox Valley Citizens for Peace and Justice
HANA Center
Hanul Family Alliance
Illinois Coalition for Immigrant and Refugee Rights
Instituto del Progreso Latino
Interfaith Committee for Detained Immigrants
Jewish Council on Urban Affairs
Jewish Reconstructionist Congregation, Evanston, IL
Logan Square Neighborhood Association
Legal Aid Society
Mano a Mano Family Resource Center
Mujeres Latinas en Acción
National Immigrant Justice Center
Northern Alliance for Immigrants
Northern Illinois Justice for Our Neighbors
Northwest Side Housing Center
Occupy Elgin
Organized Communities Against Deportation
PASO-West Suburban Action Project
Provincial Council Clerics of St. Viator
RefugeeOne
Southwest Organizing Project
Southwest Suburban Immigrant Project
Spanish Community Center
Standing Up Against Racism - Woodstock
Syrian community Network
The Council on American-Islamic Relations, Chicago
The Resurrection Project
The University YMCA New American Welcome Center
Unitarian Universalist Advocacy Network of Illinois
United African Organization
Viator House of Hospitality, Des Plaines, IL

CC:

Angela Kelley, Senior Counsel on Immigration, U.S. Department of Homeland Security
Timothy Perry, Chief of Staff, U.S. Department of Homeland Security

ⁱ U.S. Immigration and Customs Enforcement, Interim Guidance to OPLA Attorneys Regarding Civil Immigration Enforcement and Removal Policies and Priorities, (May 27, 2021), p. 2, https://www.ice.gov/doclib/about/offices/opla/OPLA-immigration-enforcement_interim-guidance.pdf.

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- ⁱⁱ See 8 U.S.C. § 1226(a) (general detention authority over “aliens” subject to removal)
- ⁱⁱⁱ See “Seeking Release from Immigration Detention,” American Immigration Council, September 13, 2019, <https://www.americanimmigrationcouncil.org/research/release-immigration-detention>.
- ^{iv} See, i.e., “New Documents Illuminate A Dark Pattern Of Abuse In ICA-Farmville,” La ColectiVA, Detention Watch Network, Advancement Project, Sanctuary DMV & National Immigrant Justice Center, August 17, 2020, <https://immigrantjustice.org/staff/blog/new-documents-illuminate-dark-pattern-abuse-ica-farmville>.
- ^v See, i.e., Mica Rosenberg, Kristina Cooke, Reade Levinson, “U.S. immigration officials spread coronavirus with detainee transfers, Reuters,” July 17, 2020, <https://www.reuters.com/article/us-health-coronavirus-immigration-detent/u-s-immigration-officials-spread-coronavirus-with-detainee-transfers-idUSKCN2411G0>
- ^{vi} Hamed Aleaziz, “ICE Moved Dozens Of Detainees Across The Country During The Coronavirus Pandemic. Now Many Have COVID-19,” BuzzFeed News, April 29, 2020, <https://www.buzzfeednews.com/article/hamedaleaziz/ice-immigrant-transfer-jail-coronavirus>
- ^{vii} See i.e. Maria Sacchetti, “Number of ICE detainees testing positive for the coronavirus rises as advocates say agency needs robust vaccination program,” Washington Post (May 28, 2021), https://www.washingtonpost.com/immigration/icedetainees-coronavirus-cases-rise/2021/05/28/e3dd2f30-bf37-11eb-b26e-53663e6be6ff_story.html.
- ^{viii} U.S. Immigration and Customs Enforcement (ICE), ICE Guidance on COVID-19, <https://www.ice.gov/coronavirus> [last visited March 22, 2021].
- ^{ix} See Jesse Franzblau, “Cut The Contracts: It’s Time To End ICE’s Corrupt Detention Management System,” National Immigrant Justice Center, March 16, 2021, <https://immigrantjustice.org/research-items/policy-brief-cut-contracts-its-time-end-ices-corrupt-detention-management-system>
- ^x See i.e. Shalina Chatlani, “COVID Cases Are Rising In ICE Facilities, Putting Detainees And The Public At Risk,” NPR, August 13, 2021, <https://www.npr.org/2021/08/13/1027095025/detainees-say-ice-exposes-them-to-covid-19>.
- ^{xi} See i.e., Letter to ICE RE: Undisclosed Transfer of Detainees, From Brooklyn Defender Services, The Legal Aid Society, The Bronx Defenders, New York Legal Assistance Group, UnLocal, Make the Road New York, June 4, 2021, <https://legalaidnyc.org/wp-content/uploads/2021/06/Undisclosed-Transfer-of-Detainees-Letter.pdf>.
- ^{xii} International Detention Coalition, There are Alternatives: A handbook for preventing unnecessary immigration detention, (2015) <https://idcoalition.org/publication/there-are-alternatives-revised-edition>.
- ^{xiii} See “Measuring *In Absentia* Removal in Immigration Court,” American Immigration Council, Jan 28, 2021, <https://www.americanimmigrationcouncil.org/research/measuring-absentia-removal-immigration-court>.
- ^{xiv} David Secor, Heidi Altman and Tara Tidwell Cullen, “Community-Based Programming as an Alternative to Immigrant Incarceration,” National Immigrant Justice Center, (April 2019) <https://immigrantjustice.org/sites/default/files/uploaded-files/no-content-type/2019-04/A-Better-Way-reportApril2019-FINAL-full.pdf>.
- ^{xv} For example, headquartered in Chicago, the National Immigrant Justice Center (NIJC) provides legal services to more than 10,000 individuals each year, including direct representation to people in detention in Illinois and the Midwest region.
- ^{xvi} According to government data collected by the Transactional Records Access Clearinghouse (TRAC), around 46% of people in immigration court have representation. Of those represented, only around 13% are in ICE detention. See TRAC State and County Details on Deportation Proceedings in Immigration Court (last accessed August 13, 2020) <https://trac.syr.edu/phptools/immigration/nta/>.
- ^{xvii} See, i.e., Senator Tammy Duckworth, “Durbin, Duckworth Call On DHS & HHS Inspectors General To Investigate COVID-19 Health Concerns At Pulaski County Detention Center,” June 1, 2020, <https://www.duckworth.senate.gov/news/press-releases/duckworth-durbin-call-on-dhs-and-hhs-inspectors-general-to-investigate-covid-19-health-concerns-at-pulaski-county-detention-center>. See also “Immigrants Request Investigation Of Medical Neglect In ICE Custody At Illinois Jail,” NIJC, March 30, 2021, <https://immigrantjustice.org/press-releases/immigrants-request-investigation-medical-neglect-ice-custody-illinois-jail>.
- ^{xviii} U.S. Department of Homeland Security, Office of the Inspector General, “Violations of ICE Detention Standards at Pulaski County Jail,” OIG-21-32, April 29, 2021, <https://www.oig.dhs.gov/sites/default/files/assets/2021-05/OIG-21-32-Apr21.pdf>.
- ^{xix} Ibid.
- ^{xx} See Annual Inspection of the Pulaski County Detention Center, U.S. Department of Homeland Security, March 2, 2017, <https://embed.documentcloud.org/documents/20407554-2017-ero-inspection-pulaski-county-detention-center#document/p40/a2005073>. See also Office of Detention Oversight Compliance Inspection, Enforcement and

Removal Operations ERO Chicago Field Office, Pulaski County Jail Ullin, Illinois, September 14 - 18, 2020, https://www.ice.gov/doclib/foia/odo-compliance-inspections/pulaskiCoJailUllinIL_Sep14-18_2020.pdf.

^{xxi} Annual Inspection of the Pulaski County Detention Center, carried out by Nakamoto Group, March 10, 2021, https://www.ice.gov/doclib/facilityInspections/pulaskiCoDetCnt_CL_03-10-2021.pdf.

^{xxii} See U.S. Department of Homeland Security, Prison Rape Enforcement Act (PREA) Audit, Pulaski County Detention Center, April 20, 2019, https://www.ice.gov/doclib/foia/prea_audit/PulaskiCoAug2018.pdf. NIJC filed a CRCL complaint on behalf of an individual who experienced alleged sexual harassment and abuse in July 2021. Complaint and declaration on file with NIJC and available upon request.

^{xxiii} See, *i.e.*, “Two Men File Civil Rights Complaint Regarding Treatment in ICE custody Inside Kentucky Detention Center,” National Immigrant Justice Center, July 29, 2021, <https://immigrantjustice.org/press-releases/two-men-file-civil-rights-complaint-regarding-treatment-ice-custody-inside-kentucky>.

^{xxiv} See, *i.e.*, Hamed Aleaziz, “A Child’s Forehead Partially Removed, Four Deaths, The Wrong Medicine - A Secret Report Exposed,” BuzzFeed News, December 12, 2019, <https://www.buzzfeednews.com/article/hamedaleaziz/ice-immigrant-surgeries-deaths-jails-whistleblower-secret>

^{xxv} “Deaths at Adult Detention Centers,” American Immigration Lawyers Association, AILA Doc. No. 16050900, Dated March 17, 2021, <https://www.aila.org/infonet/deaths-at-adult-detention-centers#2021>.

^{xxvi} Lomi Kriel, “ICE Guards ‘Systematically’ Sexually Assault Detainees in an El Paso Detention Center, Lawyers Say,” ProPublica, August 4, 2020, <https://www.propublica.org/article/ice-guards-systematically-sexually-assault-detainees-in-an-el-paso-detention-center-lawyers-say>

^{xxvii} Monsy Alvarado *et. al.*, “Deaths in custody. Sexual violence. Hunger strikes. What we uncovered inside ICE facilities across the US,” USA Today, December 19, 2019, <https://www.usatoday.com/in-depth/news/nation/2019/12/19/ice-asylum-under-trump-exclusive-look-us-immigration-detention/4381404002>

^{xxviii} Katherine Hawkins, “Medical Neglect at a Denver Immigration Jail,” Project On Government Oversight, May 21, 2019, <https://www.pogo.org/investigation/2019/05/medical-neglect-at-a-denver-immigration-jail>.

^{xxix} U.S. Department of Homeland Security, Office of the Inspector General, *Management Alert on Issues Requiring Immediate Action at the Theo Lacy Facility in Orange, California*, OIG-17-43-MA, March 6, 2017, <http://www.endisolation.org/blog/wp-content/uploads/2017/05/Management-Alert-on-Issues-Requiring-Immediate.pdf>

^{xxx} *Ibid.* See also, *e.g.*, Southern Poverty Law Center and National Immigration Project, *Shadow Prisons: Immigrant Detention in the South* (2016), https://www.splcenter.org/sites/default/files/ijp_shadow_prisons_immigrant_detention_report.pdf.

^{xxxi} U.S. Department of Homeland Security, Office of the Inspector General, *ICE Does Not Fully Use Contracting Tools to Hold Detention Facility Contractors Accountable for Failing to Meet Performance Standards*, OIG-19-18, January 29, 2019, <https://www.oig.dhs.gov/sites/default/files/assets/2019-02/OIG-19-18-Jan19.pdf>.

^{xxxii} U.S. Department of Homeland Security, Office of the Inspector General, *ICE’s Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements*, OIG-18-67, June 26, 2018, <https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf>.

^{xxxiii} See Jesse Franzblau, “Cut The Contracts: It’s Time To End ICE’s Corrupt Detention Management System,” National Immigrant Justice Center, March 16, 2021, <https://immigrantjustice.org/research-items/policy-brief-cut-contracts-its-time-end-ices-corrupt-detention-management-system>.

^{xxxiv} Detention Watch Network and National Immigrant Justice Center, *Code Red: The Fatal Consequences Of Dangerously Substandard Medical Care In Immigration Detention*, June 20, 2018, <https://immigrantjustice.org/research-items/report-code-red-fatal-consequences-dangerously-substandard-medical-care-immigration>

^{xxxv} See, *e.g.*, Eunice Cho, Tara Tidwell Cullen, and Clara Long, *Justice-Free Zones: U.S. Immigration Detention Under The Trump Administration*, National Immigrant Justice Center, ACLU, & HRW, April 30, 2020, <https://immigrantjustice.org/research-items/report-justice-free-zones-us-immigration-detention-under-trump-administration>.