

United States Senate
WASHINGTON, DC 20510-2004

May 22, 2020

Acting Director Janean Ohin
Baltimore Field Office
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
31 Hopkins Plaza 6th Floor
Baltimore, MD, 21201

Dear Acting Director Ohin:

We write to urge your Baltimore Field Office to take immediate action in order to halt the spread of COVID-19 in immigration detention facilities in the State of Maryland, including in Howard and Worcester Counties. It is our view that outbreaks of the virus represent a clear threat to the health of detained individuals as well as detention facility employees and surrounding communities. Despite the extraordinary nature of this public health crisis, we believe that sensible, measured policies carried out by your office can protect numerous individuals.

In Maryland, we have received troubling reports that Immigration and Customs Enforcement (ICE) detainees are at grave risk. Half of the ICE detainees tested nationwide thus far are positive for COVID-19 and the numbers are growing rapidly for both detainees and employees at detention facilities. Experts have described these facilities as a “tinderbox” that could quickly overwhelm ICE medical facilities and impact surrounding communities.

Whether in dedicated immigration detention facilities or local jails, immigration detainees are typically held in crowded conditions with limited access to protective supplies and equipment, or the ability to socially distance from other detainees and staff. Nevertheless, ICE has largely resisted calls from medical experts and others to release non-violent detainees to lessen the risk of rampant infection among detainees and staff. These illnesses could not only jeopardize detainees, but also the surrounding community if illnesses overwhelm local hospitals.

ICE does not appear to have a consistent plan to manage testing and treatment, and is not following CDC guidelines to minimize risk. Detainees with suspected exposures are routinely “cohorted” with other possible exposures, rather than isolated as the CDC recommends. There are many reports of inadequate masks, disinfectant and soap for detainees and employees alike. ICE continues to transfer detainees between facilities contrary to CDC guidance, risking the spread of the disease. Medical care is reportedly sub-standard at many of these facilities.

Advocates continue to report on many medically vulnerable detainees (including children, the elderly, pregnant or nursing women, or individuals with mental and physical disabilities) who have not been released, in addition to many individuals who have no criminal history and could be released on parole or placed in alternative to detention. These populations could instead wait in community-based settings (like the Family Case Management Program) while having regular check-ins with caseworkers. Note that ICE has reported a 99% compliance rate for ICE check-ins and appointments under FCMP.

We note that earlier this month, a federal district judge in Maryland ordered the release of three detained individuals who were part of a lawsuit against ICE, due to their high risk of serious illness or death because of COVID-19. These individuals were detained in Worcester and Howard Counties, and were released by the judge as part of an emergency motion for a preliminary injunction.

In late April, several Members of Congress wrote to the Inspector General of the Department of Homeland Security asking the IG to conduct site visits to ICE facilities to identify and assess whether the facilities' operations, management, standards, and conditions have sufficiently changed to address the threat of COVID-19 to both the staff and detained population. The Members of Congress additionally requested that that IG examine and assess the sufficiency of policies and practices in place at each facility to mitigate the spread of COVID-19. We are pleased that earlier this week the IG has agreed to plan a review of ICE's efforts to prevent and mitigate the spread of COVID-19 in its facilities. The objective of the planned IG review is to determine whether ICE Enforcement and Removal Operations (ERO) effectively managed the crisis at its detention facilities and adequately safeguarded the health and safety of both detainees in their custody and their staff. We urge you to fully comply with the IG's inquiry as it relates to your Baltimore office and facilities in Maryland holding ICE detainees. We will closely monitor the IG's work here, which is pursuant to a Congressional request.

We request additional information from your office regarding your COVID-19 response, broken down by each Maryland facility that ICE is using:

1. What is the current rate of testing, treatment, and results for the virus transmission among detainees and facility employees in Maryland, including contractors?
2. Are you providing adequate PPE and sanitation materials for employees and staff?
3. How many individuals are currently detained in Maryland under ICE authority?
4. Since the pandemic began, on a weekly basis, how many detainees have been transferred in and out of Maryland facilities?
5. How does your office prioritize who will be selected for detention in Maryland facilities at this time, and to what extent do you focus on individuals that pose a public safety risk to the community?

6. How many individuals have been released from Maryland facilities due to health reasons?
7. Does your office use any components of the Family Case Management Program?
8. Does your office make arrangements for detainees to have meaningful contact with their attorneys using teleconferencing capabilities?
9. How are ICE detainees who are detained for civil law violations treated differently, if at all, from detainees in the same facilities being held for criminal law violations?

Thank you for your consideration. We look forward to your timely response, and to continuing to work with you and the Department of Homeland Security to protect all the people of Maryland from the further spread of this dangerous virus.

Sincerely,

/s/ Benjamin L. Cardin
United States Senator

/s/ Chris Van Hollen
United States Senator