

**United States Senate**  
WASHINGTON, DC 20510

September 21, 2021

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

Dear Acting Director Johnson:

We are writing to encourage the release of people currently detained by U.S. Immigration and Customs Enforcement (ICE) in New Jersey who do not meet existing ICE enforcement and removal priorities.

On August 20, 2021, New Jersey Governor Phil Murphy signed into law legislation passed by the State Legislature that prohibits state, local, and private entities from entering into, renewing, or extending detention agreements with ICE.<sup>1</sup> After the recent winding down of immigration detention at the Essex County Correctional Facility, there are three remaining ICE facilities in New Jersey: the Bergen County Jail, the Elizabeth Detention Center, and the Hudson County Jail. While the Bergen County Jail contract has no expiration date, its future is reportedly in question.<sup>2</sup> The contract for the Elizabeth Detention Center, which is owned and operated by a private company, was recently extended but will expire in 2023.<sup>3</sup> As for the Hudson County Jail, the County recently announced its intent to end its relationship with ICE and no longer allow immigration detention effective November 1, 2021.<sup>4</sup>

As ICE begins planning for a potential future without immigration detention facilities located in New Jersey, we encourage you to prioritize the release of detained individuals who do not meet the immigration enforcement and removal priorities set by Homeland Security Secretary Alejandro Mayorkas on February 18, 2021.<sup>5</sup> Specifically, we encourage you to release any

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<sup>1</sup> Brent Johnson, *N.J. Bans Jails from New ICE Contracts as Murphy Signs Law*, NJ.COM (Aug. 20, 2021), <https://www.nj.com/politics/2021/08/nj-bans-jails-from-new-ice-contracts-as-murphy-signs-law.html>.

<sup>2</sup> Sophie Nieto-Munoz, *As ICE Detention Centers Shutter, Immigrant Advocates Eye Bergen County's Jail*, N.J. MONITOR (Sept. 14, 2021), <https://newjerseymonitor.com/2021/09/14/as-ice-detention-centers-shutter-immigrant-advocates-eye-bergen-countys-jail>.

<sup>3</sup> *Id.*

<sup>4</sup> Peter D'Auria, *Hudson County Will No Longer House ICE Detainees by November 1*, NJ.COM (Sep. 10, 2021), <https://www.nj.com/hudson/2021/09/hudson-county-spokesman-exit-from-ice-contract-is-very-close-to-imminent.html>.

<sup>5</sup> Memorandum from Acting Dir. Tae D. Johnson to All ICE Emps., *Civil Immigration Enforcement and Removal Priorities* (Feb. 18, 2021), [https://www.ice.gov/doclib/news/releases/2021/021821\\_civil-immigration-enforcement\\_interim-guidance.pdf](https://www.ice.gov/doclib/news/releases/2021/021821_civil-immigration-enforcement_interim-guidance.pdf).

person who is not suspected of having engaged in terrorism or espionage, and any person who does not pose a threat to public safety.<sup>6</sup>

When the ICE detention program at the Essex County Jail closed earlier this year, our offices made several inquiries encouraging you to release detained individuals who did not fall within the enforcement priorities outlined by Secretary Mayorkas, rather than transferring said individuals to detention centers located several states away. Reports indicate that at least 46 people detained at Essex were transferred to facilities across the country, including to Alabama, Georgia, and Louisiana.<sup>7</sup> Transferring detained individuals increases their risk of contracting COVID-19, endangers immigrants' mental and physical health and wellbeing, and makes it extremely difficult to remain in contact with their existing legal counsel.

COVID-19 poses an immediate and enormous threat to those detained in immigration detention facilities, a risk that only increases if people are transferred between facilities. Since March 2020, ICE facilities around the country have failed to implement protocols that would successfully limit the number of cases, infections, and deaths among those detained. Since the pandemic began, close to 20,000 detainees have tested positive for COVID-19.<sup>8</sup> In New Jersey, conditions grew so dire that, in December 2020 and January 2021, as many as 86 people held in ICE custody in several facilities in New Jersey initiated a series of hunger strikes to call for their release on account of the threat of contracting COVID-19.<sup>9</sup> Since the onset of the COVID-19 pandemic, ICE has reported 180 cases of COVID-19 at its facilities in New Jersey, although infectious disease models have suggested the total number of cases is much higher than ICE's publicly released numbers.<sup>10</sup> Public health experts have pointed to transfers of detained individuals between facilities, in addition to insufficient testing and lax COVID-19 safety measures, as the main culprits for the continued spread of COVID-19 among people detained by ICE.<sup>11</sup>

Not only do transfers expose detainees to COVID-19, but they also threaten the physical, mental, and emotional health of detained individuals. Any form of detention is a traumatic experience, especially among immigrant detainees who are more likely to experience anxiety, depression, and post-traumatic stress disorder both during and after detention than the general population.<sup>12</sup> For detainees with existing medical conditions, transfer risks can interrupt necessary or urgent medical care. The destination facility may also neglect to provide the same treatment as the

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<sup>6</sup> *Id.*

<sup>7</sup> Monsy Alvarado, *ICE Relocates Detainees from NJ jails, Lawsuit Looks To Block Long-Distance Transfers*, N.J. SPOTLIGHT NEWS (Jun. 30, 2021), <https://www.njspotlight.com/2021/06/ice-nj-relocates-dozens-of-detainees-from-jails/>.

<sup>8</sup> Maura Turcotte, *Virus Cases Are Surging at Crowded Immigration Detention Centers in the U.S.*, N.Y. TIMES (July. 6, 2021), <https://www.nytimes.com/2021/07/06/us/covid-immigration-detention.html>.

<sup>9</sup> Eric Kiefer, *Prison Hunger Strikes Continue in NJ as ICE Detainees Fear COVID*, PATH.COM, (Jan. 6, 2021), <https://patch.com/new-jersey/newarknj/nj-prison-hunger-strikes-continue-essex-ice-detainees-fear-covid>.

<sup>10</sup> *COVID-19 ICE Detainee Statistics by Facility*, U.S. IMMIGR. & CUSTOMS ENF'T, <https://www.ice.gov/coronavirus#detStat> (last visited Sep. 13, 2021).

<sup>11</sup> Maura Turcotte, *Virus Cases Are Surging at Crowded Immigration Detention Centers in the U.S.*, N.Y. TIMES (July 6, 2021), <https://www.nytimes.com/2021/07/06/us/covid-immigration-detention.html>.

<sup>12</sup> M. von Werthern et al., *The Impact of Immigration Detention on Mental Health: A Systematic Review*, 18 BMC PSYCHIATRY 382 (Dec. 2018), <https://bmcp psychiatry.biomedcentral.com/articles/10.1186/s12888-018-1945-y>.

original facility, change a person's medications, or leave a gap in care during the transfer process.

Finally, transferring individuals out of New Jersey removes them from a strong legal community of immigration experts, including the state-funded Deportation and Detention Defense Initiative.<sup>13</sup> Many detainees in New Jersey obtain access through this program to pro bono attorneys as they attempt to stay in the United States. If transferred out of New Jersey rather than released into the care of their communities, immigrants risk losing not only contact with their families, but also adequate legal representation and access to due process in our country's immigration courts.

To protect the health, safety, and human rights of detained individuals in New Jersey, we urge ICE to use its discretionary authority to release detainees who do not fall within the Department of Homeland Security's enforcement priorities into the care of their communities. Thank you for prompt attention to this important matter.

Sincerely,



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Cory A. Booker  
United States Senator



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Robert Menendez  
United States Senator

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<sup>13</sup> *Legal Representation Keeps Families Together and Strengthens Public Health*, N.J. COALITION FOR IMMIGRANT REPRESENTATION (July 2020), <https://www.afsc.org/sites/default/files/documents/DDDI%20Report%207.29.2020.pdf>.