

July 29, 2022

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
2801 Nebraska Avenue, NW Washington, DC 20528

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

The Honorable Kathleen Hochul
Governor of New York State
NYS State Capitol Building
Albany, New York 12224

Sheriff Carl E. DuBois
Undersheriff Kenneth Jones
County Executive Steven Neuhaus
Orange County Correctional Facility
110 Wells Farm Road
Goshen, NY 10924

Dear Secretary Mayorkas and Acting Director Johnson,

We write to encourage your agencies to administer the prompt release of people currently detained by U.S. Immigration and Customs Enforcement (ICE) at the Orange County Correctional Facility (“OCCF”). Those who were recently transferred to other facilities and out of New York State, should be brought back and released to their communities.

As of Monday, July 26, 2022, approximately 40% of the people detained at OCCF were transferred out without advanced notice or information regarding where they were going to be transferred.¹ We have since learned from detained people that some of them were briefly transferred to Elizabeth Detention Facility in New Jersey and then transferred to other facilities. Most people are now detained at the Buffalo Federal Facility in Batavia, New York and the Adams County Correctional Center in Natchez, Mississippi.² As of July 28, 2022, there are further reports that OCCF officials are directly communicating with detained people who

¹ Daniel Parra, *ICE Transfers Detained Immigrants From NY Jail Without Notice*, City Limits (July 26, 2022), <https://citylimits.org/2022/07/26/ice-transfers-detained-immigrants-from-ny-jail-without-notice/>.

² *Id.* Notably, all of the aforementioned facilities currently have confirmed COVID-19 cases, and not all of these facilities have video conferencing capabilities. See COVID-19 ICE Detainee Statistics by Facility, U.S. Immigration and Customs Enforcement (ICE) (July 27, 2022), <https://www.ice.gov/coronavirus#citations>.

remained at OCCF, that an additional 21 people will be transferred by Monday, August 1, 2022 as OCCF will not renew its detention contract with ICE.

The lack of transparency and conflicting information about future transfers out of OCCF and the status of OCCF's contract with ICE has resulted in mass anxiety and confusion for detained people, their families, and their legal service providers. In 2013, the New York City Council funded and created the New York Immigrant Family Unity Project (NYIFUP) to ensure free, quality legal representation to detained immigrant New Yorkers facing deportation.³ Legal service providers such as NYIFUP are tasked with ensuring detained people's due process rights are protected both in detention and throughout their removal proceedings. It is reported that NYIFUP attorneys representing detained people at OCCF directly asked ICE, prior to any transfers taking place, whether their clients would be transferred to out-of-state locations and that ICE denied specific transfer plans only to then initiate transfers of NYIFUP clients at OCCF the next business day.⁴ In response to public outcry over these transfers, ICE has stated that there are no imminent transfers scheduled at this time but ICE may still transfer people "to accommodate various operational demands, and meet emergent requirements" while simultaneously stating that they cannot notify detained people or their attorneys about future transfers due to "security" concerns.⁵ That ICE would provide such internally inconsistent information to those tasked with protecting the due process rights of detained people is both nonsensical and disconcerting.

The lack of transparency by ICE is still ongoing. So far, it has been unclear whether OCCF has decided against renewing its contract with ICE or if ICE is unilaterally phasing out its contract with OCCF. The lack of clarity about OCCF's contract status is relevant, especially where different standard operating procedures apply, depending on the status of the ICE contract.⁶ We would hope the agency would follow its own appropriate procedures in alignment with human dignity, respect, and out of consideration for the human impact of their policy decisions.

The timing of these transfers, which further separate New York families, also raises concern. Throughout 2022 OCCF has been the subject of serious allegations⁷ of abuse, racism and

³ The Bronx Defenders, *New York Immigrant Family Unity Project*, <https://www.bronxdefenders.org/programs/new-york-immigrant-family-unity-project/#:~:text=Funded%20by%20the%20New%20York,immigration%20courts%20in%20New%20Jersey> (last visited July 28, 2022).

⁴ Max Rivlin-Nadler, *ICE Just Abruptly Moved Dozens of Immigrant Detainees From NY to Mississippi*, Hell Gate (July 26, 2022), <https://hellgatenyc.com/ice-transfer-ny-detainees-mississippi>.

⁵ Matt Katz, NY area's ICE detention facilities are emptying, with local immigrants moved across the country, Gothamist (July 27, 2022), <https://gothamist.com/news/new-york-areas-ice-detention-facilities-are-emptying-with-local-immigrants-moved-across-the-country>.

⁶ U.S. Immigration and Customs Enforcement, *Standard Operation Procedure: Detention Facility Termination of Agreement* (March 2, 2022), https://www.ice.gov/doclib/detention/DetentionFacilityClosure_SOP.pdf.

⁷ Matt Katz, *Allegations Surface About Treatment of ICE Detainees in Orange County*, Gothamist, December 2, 2021 <https://gothamist.com/news/allegations-surface-about-treatment-ice-detainees-orange-county>.

egregious conditions of confinement as well as hunger strikes⁸ by those detained at OCCF.⁹ On February 17, 2022, immigrant and civil rights organizations filed a complaint detailing such allegations and egregious conditions with the DHS Office for Civil Rights and Civil Liberties and Office of the Immigration Detention Ombudsman (“CRCL Complaint”).¹⁰ On February 28, 2022, the New York City Council held a public hearing about COVID-19 in ICE detention during which detained people, their families, attorneys, advocates and impacted community members shared detailed accounts of OCCF’s culture of abuse, mistreatment, and medical neglect.¹¹ On May 17, 2022, two New York City Council Members toured the jail with OCCF officials and corroborated many of the disturbing reports of conditions and white nationalist ideologies among OCCF staff.¹² Initiating these transfers after months of advocacy and investigation into OCCF gives us reason to question whether these transfers are retaliatory and punitive, particularly given ICE’s recorded history of abusive transfer practices.¹³

Yet regardless of OCCF’s contract status, ICE’s internal policies, or the timing and context, these transfers are unacceptable to us as elected officials because they are a frightening and dehumanizing experience for immigrant New Yorkers and their families.¹⁴ Transfers also interfere with detained people’s legal cases and due process rights as well as threaten public health and safety in the midst of global health crises. The COVID-19 pandemic has killed over a million people in the United States since March 2020, and new variants continue to infect and kill people in the United States every day.¹⁵ More than 45,000 people have tested positive for COVID-19 in ICE detention overall, and currently, there are more than 700 positive cases throughout ICE facilities nationwide.¹⁶ After two and a half years, it is clear that COVID-19

⁸ Graham Rayman, *Hunger strike among ICE detainees in upstate jail over conditions; jail officials dispute allegations*, New York Daily News (Feb. 17, 2022), <https://www.nydailynews.com/new-york/nyc-crime/ny-hunger-strike-immigration-detainees-orange-county-20220217-whmeeubocfanzhatnjh5e7ubci-story.html>.

⁹ Brooklyn Defenders Services, *As Immigrants Hunger Strike in Orange County Correctional Facility, NYC Public Defenders Call for ICE to Release All Immigrants in Detention* (February 18, 2022), <https://bds.org/latest/as-immigrants-hunger-strike-in-orange-county-correctional-facility-nyc-public-defenders-call-for-ice-to-release-all-immigrants-in-detention>.

¹⁰ NYU Immigrant Rights Clinic, et al, *CRCL Complaint* (Feb. 17, 2022), https://www.law.nyu.edu/sites/default/files/OCCF%20Multi-Organization%20DHS%20CRCL%20Complaint%20and%20Index_2%2017%202022.pdf.

¹¹ Daniel Parra, *City Council Hearing Probes Conditions for ICE Detainees in New York*, City Limits (February 28, 2022), <https://citylimits.org/2022/02/28/city-council-hearing-probes-conditions-for-ice-detainees-in-new-york/>.

¹² <https://twitter.com/CMSShahanaHanif/status/1529525561218981888>

¹³ Yeganeh Torbati, Dara Lind and Jack Gillum, *In a 10-Day Span, ICE Flew This Detainee Across the Country — Nine Times*, ProPublica (March 27, 2020), <https://www.propublica.org/article/coronavirus-ice-flights-detainee-sirous-asgari>.

¹⁴ Adrienne Pon, *Identifying Limits to Immigration Detention Transfers and Venue*, Stanford Law Review (March 201), <https://www.stanfordlawreview.org/print/article/identifying-limits-to-immigration-detention-transfers-and-venue/>.

¹⁵ Sophia Gurulé, Abdullah Shihpar, *ICE Is Detaining More Immigrants. Covid Is Putting Them in Danger*, The Nation (Jan. 25, 2022), <https://www.thenation.com/article/society/covid-ice-detention-centers/>.

¹⁶ *COVID-19 ICE Detainee Statistics by Facility*, U.S. Immigration and Customs Enforcement (last visited July 28, 2022), <https://www.ice.gov/coronavirus#detStat>.

poses an immediate threat to those detained in ICE detention facilities and that this risk only increases when transfers between facilities occur.¹⁷ Public health professionals have also studied and documented how ICE's transfer practices throughout the COVID-19 pandemic¹⁸ have exacerbated COVID-19 outbreaks inside detention facilities and in their surrounding communities.¹⁹

ICE's recent transfers are even more alarming as the United States is currently facing *two* global health emergencies. Just last week, the World Health Organization publicly announced that MPX (also known as monkeypox or orthopox) is a global health crisis²⁰, and currently New York State leads in the number of reported MPX cases throughout the United States.²¹ Given this escalating public health crisis, we would hope ICE would learn from its prior mistakes throughout the COVID-19 pandemic and refrain from transferring people out of New York State. Otherwise, it is only a matter of time until MPX similarly decimates people inside ICE detention facilities and those in their surrounding communities.²²

Immigrant New Yorkers should be allowed to live in the safety of their homes and communities while navigating their removal proceedings and getting the medical care they need. A robust network of legal and social service providers throughout New York are engaged, ready, and capable of supporting those detained or recently detained at OCCF. We demand ICE to stop the transfers of immigrant New Yorkers at OCCF and urge ICE to release them to their communities and support systems. Additionally, we demand that ICE engages in a meaningful and transparent manner with legislators, advocates, and community members by:

- Providing up to date information about transfers, including how many people are scheduled to be transferred and the addresses of the facilities that they are being transferred to;

¹⁷ 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>.

¹⁸ 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>.

¹⁹ 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>.

²⁰ World Health Organization, *WHO Director-General declares the ongoing monkeypox outbreak a Public Health Emergency of International Concern*, WHO.int (July 23, 2022), <https://www.who.int/europe/news/item/23-07-2022-who-director-general-declares-the-ongoing-monkeypox-outbreak-a-public-health-event-of-international-concern>.

²¹ Centers for Disease Control and Prevention (CDC), 2022 U.S. Map & Case Count (last updated July 27, 2022), <https://www.cdc.gov/poxvirus/monkeypox/response/2022/us-map.html>.

²² *Letter to ICE RE: Undisclosed Transfer of Detainees*, 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>.

- Facilitating a comprehensive process for detained people, legal counsel, and advocates to file release requests, in accordance with the requirements of Part II.E of ICE Policy 11308;²³ and,
- Confirming the expiration date of OCCF's current contract with ICE and whether OCCF has communicated to ICE its intent to renew or not renew that contract to jail immigrants in ICE custody at OCCF.

We demand that your agencies quickly engage with New York legal service providers, advocacy groups, and community members. We also ask that you brief our offices with up-to-date information regarding where people are being transferred to, and any further plans to transfer New Yorkers. Finally, we demand that the agencies facilitate a fair and reasonable process for advocates to file release requests on behalf of detained immigrant New Yorkers facing potential transfer and provide ample opportunity for advocates and the people they represent to do so.

Thank you for your prompt attention to this important matter.

New York State Senate



Julia Salazar, Senator, District 18
Chair, NYS Senate Crime Victims, Crime & Correction Committee



Jessica Ramos, Senator, District 13
Jamaal T. Bailey, Senator, District 36
Jabari Brisport, Senator, District 25
Brad Hoylman, Senator, District 27
Robert Jackson, Senator, District 31
John C. Liu, Senator, District 11
Zellnor Y. Myrie, Senator, District 20
Gustavo Rivera, Senator, District 33
Luis R. Sepúlveda, Senator, District 32
Jose M. Serrano, Senator, District 29

²³ U.S. Immigration and Customs Enforcement, *Standard Operation Procedure: Detention Facility Termination of Agreement*, ICE.gov (March 2, 2022), https://www.ice.gov/doclib/detention/DetentionFacilityClosure_SOP.pdf.

New York State Assembly



Karines Reyes, R.N., Assembly Member, District 87
Chair, Assembly Subcommittee on Workplace Safety



Harvey Epstein, Assembly Member, District 74



Catalina Cruz, Assembly Member, District 39
Jonathan Rivera, Assembly Member, District 149
Kenny Burgos, Assembly Member, District 85
Nathalia Fernández, Assembly Member, District 80
Jessica González-Rojas, Assembly Member, District 34
Michaelle Solages, Assembly Member, District 22
David I. Weprin, Assembly Member, District 24
Emily Gallagher, Assembly Member, District 50
Marcela Mitaynes, Assembly Member, District 51
Yuh-Line Niou, Assembly Member, District 65
Chantel Jackson, Assembly Member, District 79
Yudelka Tapia, Assembly Member, District 86
Anna Kelles, Assembly Member, District 125
Daniel O'Donnell, Assembly Member, District 69
Al Taylor, Assembly Member, District 71
Maritza Davila, Assembly Member, District 53
Linda B. Rosenthal, Assembly Member, District 67
Deborah J. Glick, Assembly Member, District 66
Phara Souffrant Forrest, Assembly Member, District 57

New York City Council



Shahana Hanif, Council Member, District 39
Chair, NYC Council Committee on Immigration



Shekar Krishnan, Council Member, District 25



Sandy Nurse, Council Member, District 37



Keith Powers, Council Member, District 4
Majority Leader



Alexa Avilés, Council Member, District 38



Crystal Hudson, Council Member, District 35



Justin Brannan, Council Member, District 43



Jennifer Gutiérrez, Council Member, District 34



Kristin Richardson Jordan, Council Member, District 9



Mercedes Narcisse, Council Member, District 46




Carmen De La Rosa, Council Member, District 10



Pierina Sanchez, Council Member, District 14



Rita Joseph, Council Member, District 40



Lynn Schulman, Council Member, District 29

A handwritten signature in black ink, appearing to read "Chi Ossé", with a long horizontal stroke extending to the right.

Chi Ossé, Council Member, District 36

A handwritten signature in black ink, appearing to read "TCA", with a stylized, looped initial 'T'.

Tiffany Cabán, Council Member, District 22

A handwritten signature in black ink, appearing to read "Shaun Abreu", with a large, sweeping initial 'S'.

Shaun Abreu, Council Member, District 7

A handwritten signature in black ink, appearing to read "Carlina Rivera", with a stylized, cursive script.

Carlina Rivera, Council Member, District 3

A handwritten signature in black ink, appearing to read "Charles Barron", with a stylized, cursive script.

Charles Barron, Council Member, District 42

A handwritten signature in black ink, appearing to read "Linda Lee", with a stylized, cursive script.

Linda Lee, Council Member, District 23