



The Honorable Alejandro Mayorkas
Secretary of Homeland Security
Washington, D.C. 20528

March 07, 2021

Dear Secretary Alejandro Mayorkas:

On behalf of the Board of Directors of Amnesty International USA,¹ we write to you to urge you to act on the promise of President Biden's immigration agenda by building an immigration enforcement system based on humanity, compassion, fairness, and respect.

As initial steps, the Department of Homeland Security (DHS) should release people in immigration detention through an affirmative file review process with a presumption of liberty, end family detention, and end the use of facilities run by private prison companies and county jails for immigration detention.

Release people in detention through an affirmative file review process with a presumption of liberty

Last month, Amnesty International USA, as part of a coalition of 120 legal, medical services, and advocacy organizations, sent a letter to the White House and DHS urging the implementation of a file review process to reconsider the custody determination for every person currently in ICE custody.²

We urge you again to swiftly establish an affirmative file review process to consider release of people in detention, with a presumption of liberty. This process should prioritize people who are most vulnerable to harm in custody, including individuals who face a heightened risk of serious illness or death from COVID-19, transgender people, pregnant people, HIV+ people, and all families and children. All persons should be considered eligible for release pursuant to this process, including those subject to statutory mandatory custody under 8 U.S.C. § 1226(c). This is in line with Immigration and Customs Enforcement (ICE) officials exercising their discretion to release people detained under 8 U.S.C. § 1226(c) for urgent humanitarian reasons, including the COVID-19 pandemic.

Further, DHS should adopt guidance based on the presumption of liberty for people in the immigration system, and that commits to individualized consideration of release for all people in ICE custody. No one should be detained for seeking safety or detained solely because of their immigration status.

¹ Amnesty International is an independent, Nobel Peace Prize-winning, global human rights movement of more than ten million people. Amnesty International USA is the movement's U.S.-based section.

² Coalition Letter to Secretary Mayorkas on ICE File Review (February 11, 2021), available at www.amnestyusa.org/wp-content/uploads/2021/02/Coalition-Letter-to-Secretary-Mayorkas-on-ICE-File-Review.pdf.

The use of detention as a default response must cease, and the thousands of immigrants and asylum-seekers in detention should be freed. Such affirmative action is in line with President Biden's stated commitment to racial equity and human rights.

Instead of detention, the norm should be that asylum-seekers and immigrants are allowed to live in the community, supported by sponsors, community-based services, and case management programs. These are proven, compassionate alternatives that are humane, support dignity, and facilitate compliance. They also save considerable government resources.

End family detention

The policy and practice of family detention should be ended immediately, and all three family detention facilities closed. Children should never be detained because of their immigration status, and families should not be separated. Children should live in freedom with their families as they pursue their right to seek safety.

The recent developments at the three family residential centers (FRC) suggest a reconsideration of the use of family detention. We urge you to provide clear, public information about proposed plans for these facilities and to take the necessary next steps: not to detain additional families; close the facilities; and end family detention altogether.

The FRCs in Texas are reportedly to be used as "reception centers," while the FRC in Pennsylvania is reportedly empty. We urge immediate, open access for families held in these facilities to attorneys who can provide information on the asylum process and ensure that their rights are respected. They should be open to nongovernmental actors such as humanitarian case workers, medical personnel, volunteers and others, and requests for access by human rights monitors should not be subject to unreasonable delay. Initial processing of asylum-seeking families should be moved from FRCs, which should be closed, and instead conducted by humanitarian staff in humanitarian reception facilities.

End the use of facilities run by private prison companies and county jails for immigration detention

For-profit detention should be ended. The vast majority of people under ICE custody are detained in immigration detention facilities owned or managed by private prison corporations. These facilities have a well documented record of harsh conditions and negligent care, and lack of accountability.

In line with the Department of Justice phasing out of private prison companies for use by the Bureau of Prisons, DHS should develop and implement a plan to phase out ICE contracts with private prison companies. Just as private prison companies have been found to provide substandard and unsafe conditions for criminal detention facilities and incentivize mass incarceration, the same is true for the use of private prison companies for immigration detention. The reliance on privately operated and owned

detention facilities has fueled arbitrary, mass detention and provision of care and conditions that are negligent and dangerous for people in ICE custody.

At the same time, DHS should phase out contracts with state and local prisons and jails and other criminal detention facilities, including those privately owned and operated, for immigration detention. Facilities with the worst records for negligent and abusive care and conditions and lack of accountability should be prioritized in phasing out contracts.

Black and brown communities again and again bear the brunt of harsh, punitive enforcement policies and practices anchored in detention and powered by private prison companies. Failure to address these systemic harms undermines President Biden's commitment to racial equity and human rights.

The moment is now: you have the opportunity to turn away from harsh practices that punish and criminalize asylum-seekers and immigrants and perpetuate the systemic harms of racial inequity, and begin to build a more just, compassionate, and humane immigration system.

Thank you for your urgent action.

Sincerely,

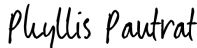
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