

Dear Attorney General Barr:

We, the undersigned organizations, write at a time of deep uncertainty and danger for communities across the United States. As the COVID-19 pandemic spreads, courts, prosecutors, and law enforcement across the country are prioritizing community safety by ending unnecessary court hearings, declining new arrests or charges, and increasing discretionary releases from custodial facilities in order to significantly reduce incarceration and community spread of the virus.¹

Several federal courts have followed these best practices to reduce the likelihood of a health disaster in our jails and prisons, staying court hearings until May and not bringing unnecessary charges like unauthorized entry or reentry against immigrants at the border.² Acting Deputy Secretary of Homeland Security Ken Cuccinelli has said that federal courts in Arizona and New Mexico would be suspending certain prosecutions over concerns of the spreading coronavirus.³

We call on the Department of Justice to immediately enact the following changes in all districts:

- 1) Work with CBP, ICE, and U.S. Marshals to end arrests and criminal referrals for unauthorized entry (8 USC 1325) and unauthorized reentry (8 USC 1326);
- 2) Decline all new criminal prosecutions for unauthorized entry (8 USC 1325) and unauthorized reentry (8 USC 1326);
- 3) Immediately halt "Operation Streamline" magistrate courts at the southern border;
- 4) Drop all charges for unauthorized entry (8 USC 1325) and unauthorized reentry (8 USC 1326) and prioritize release of those currently being held on such charges; and
- 5) Agree to re-sentence people held in BOP or private prisons on entry or reentry offenses.

¹ See e.g. Joint Statement from Elected Prosecutors on COVID-19 and Addressing the Rights and Needs of Those in Custody, Fair and Just Prosecution, March 17, 2020, <https://fairandjustprosecution.org/wp-content/uploads/2020/03/Coronavirus-Sign-On-Letter.pdf>; Sara Jarvis, Coronavirus: The Latest Court Closures And Restrictions," Law 360, <https://www.law360.com/articles/1252836>; Ohio Releases Hundreds of Inmates Due to Concern of Coronavirus Spread," Fox 56, Mar. 16, 2020, <https://fox59.com/news/ohio-jail-releases-hundreds-of-inmates-due-to-concern-of-coronavirus-spread/>

² National Commission on Correctional Health Care, "Report Examines Trends in U.S. Aging Prison Population," Mar. 6, 2017, <https://www.ncchc.org/report-examines-trends-in-u.s.-aging-prison-population>

³ See Lauren Berg, "Coronavirus Slows Ariz., NM Courts: Cuccinelli," Law360, Mar. 3, 2020. <https://www.law360.com/articles/1253410>. Despite this announcement, court calendars show federal prosecutors are continuing to prosecute 8 USC 1325 and 8 USC 1326 charges. See Operation Streamline Calendar, Judge James F. Metcalf, Yuma, Arizona, Mar. 18, 2020. http://www.azd.uscourts.gov/sites/default/files/documents/OSL_CAL_YUMA.pdf

An outbreak of the coronavirus in these courts and custodial facilities would not only move fast, it would be catastrophic. According to the Center for Disease Control, the elderly and people with underlying medical conditions are more susceptible to falling severely ill with COVID-19. Both populations are, unfortunately, well represented among incarcerated people. People over the age of 55 make up the fastest growing demographic of those imprisoned.⁴ Similarly, jails and prisons house disproportionately large numbers of people with chronic illnesses and complex medical needs that many facilities are already ill-equipped to treat.⁵ And at least 57 ICE detention centers have already experienced outbreaks of infectious diseases like mumps that have presented challenging health issues.⁶

As these courts and facilities become incubators for the coronavirus, it will not only impact those incarcerated, but destabilize our communities, all of which face an unprecedented health crisis. Jails and prisons cycle large numbers of people, including staff, in and out of close, unsanitary quarters on a daily basis. Many people are arrested and booked into jail on the same day, while others are released within a short time back to their community. People leave immigration detention and return to communities in the US or to vulnerable refugee shelters and encampments along the border. According to reports, hundreds of DHS officials are in quarantine, and at least 13 are confirmed COVID-19 positive.⁷

Moreover, these prosecutions are completely unnecessary to begin with and devastate communities. Prosecutions destroy families, and subject people to double punishment while already facing a punitive deportation and immigration detention system.⁸

Taking the above actions immediately will promote the public health and the safety of those in custody, those working in the court and detention system, and the broader community. We implore you to act swiftly to keep our communities safe.

⁴ From 1999 to 2016, the number of people age 55 or older in state and federal prisons increased 280 percent. See Pew Trusts, *Aging Prison Populations Drive Up Costs*, Feb. 20, 2018, <https://www.pewtrusts.org/en/research-and-analysis/articles/2018/02/20/aging-prison-populations-drive-up-costs>.

⁵ Peter Wagner and Emily Widra, “No need to wait for pandemics: The public health case for criminal justice reform,” Prison Policy Initiative, Mar. 6, 2020, <https://www.prisonpolicy.org/blog/2020/03/06/pandemic/>.

⁶ CDC, “Notes from the Field: Mumps in Detention Facilities that House Detained Migrants — United States, September 2018–August 2019,” Aug. 30, 2019, 68(34):749–750.

⁷ Besty Woodruff Swan, “Documents show undisclosed coronavirus cases at DHS,” POLITICO, Mar. 18, 2020.

<https://www.politico.com/news/2020/03/18/undisclosed-coronavirus-cases-at-homeland-security-135569>

⁸ See, *i.e.*, Jesse Franzblau, “Decriminalizing Migration: Challenging the Abusive Practice of Migrant Prosecutions,” National Immigrant Justice Center, Dec. 9, 2019, <https://www.immigrantjustice.org/staff/blog/decriminalizing-migration-challenging-abusive-practice-migrant-prosecutions>

To discuss this matter further, please contact Jacinta Gonzalez at jacinta@mijente.net or at (415) 635-4950.

Signed,

350.org

Adalberto United Methodist Sanctuary Church
Adhikaar
Advancement Project, National Office
The Advocates for Human Rights
Advocate Visitors with Immigrants in Detention
African Public Affairs Committee
Al Otro Lado
Alianza Americas
All of Us or None Bakersfield
All of Us or None Central Illinois
All of Us or None Louisville
All of Us or None — St. Louis Chapter
American Friends Service Committee
Asian Americans Advancing Justice - Asian Law Caucus
Asian Americans Advancing Justice - Atlanta
ASISTA
The Bail Project
Bend the Arc: Jewish Action
Border Angels
Broken No More
Brooklyn Defender Services
Broward for Progress
California Immigrant Youth Justice Alliance
Center for Popular Democracy
The Center for Sexual Pleasure and Health
Center for Victims of Torture
Centro Sin Frontera
Chula Vista Partners in Courage
Cleveland Jobs with Justice
Coalición de Derechos Humanos
College & Community Fellowship
Community Justice Exchange - National Bail Fund Network
Community Justice Project
Community To Community Development
Comunidad Colectiva
CT Shoreline Indivisible
DRUM — Desis Rising Up and Moving
Detention Watch Network
Detroit Justice Center
Dignity and Power Now
Drug Policy Alliance

The Effing Foundation for Sex-Positivity
Equality Labs
Essie Justice Group
Faith in Texas
Familia: Trans Queer Liberation Movement
Families for Freedom
Family Reunification
Farmworkers Association of Florida
Fayetteville PACT
Federal Defenders of San Diego Inc
First Friends of NJ & NY
Florida Immigrant Coalition
Florida Legal Services, Inc.
Freedom Network USA
Friends of Miami-Dade Detainees
Georgia Latino Alliance for Human Rights
Grassroots Global Justice Alliance
Grassroots Leadership
Gender Justice LA
HealthWorks Ending Detention
Human Rights First
Human Rights Initiative of North Texas
Immigrant Defense Project
Immigrant Families Together
Immigrant Justice Network
Immigrant Legal Defense
Immigrant Legal Resource Center
Indivisible
Interfaith Worker Justice
Inland Coalition for Immigrant Justice
Institute of the Black World 21st Century (IBW)
Institute for Women in Migration (IMUMI)
Jefferson County Immigrants Rights Advocates
Jewish Voice for Peace
Just Futures Law
Justice Strategies
Juntos
Kasa Healing
Kentuckians For The Commonwealth
Latin America Working Group (LAWG)
Latinx Therapists Action Network
The Leadership Conference/Education Fund
Leadership Conference of Women Religious
Legal Services for Prisoners with Children
Life Coach Each One Teach One Reentry Fellowship
Lincoln United Methodist Church
LOCK NATION INC. Reintegration Programs/partnership Fayetteville PACT
Make the Road New York

Mano Amiga
The Meeting Point
Migrant Center for Human Rights
Migrant Rights Collective
Mijente
Movement for Family Power
Muslim Public Affairs Council (MPAC)
National Advocacy Center of the Sisters of the Good Shepherd
National Council of Churches
National Council of Jewish Women
National Day Laborer Organizing Network (NDLON)
National Immigrant Justice Center
National Immigration Law Center
National Immigration Project of the National Lawyers Guild
National Korean American Service & Education Consortium (NAKASEC)
National Latina Institute For Reproductive Health
National Network for Immigrant & Refugee Rights
National Queer and Trans Therapists of Color Network
National Queer Asian Pacific Islander Alliance
New Florida Majority
New Mexico Immigrant Law Center
New Orleans Worker Center for Racial Justice
A New PATH (Parents for Addiction Treatment & Healing)
New Sanctuary Network Tulsa
New York Immigration Coalition
Northwest Immigrant Rights Project
Northwest Indiana RESIST
Organize Florida
Oxfam America
Pedro Arrupe Jesuit Institute
Pennsylvania Immigration and Citizenship Coalition
PICO California
Poder in Action
Project BOLT
Project South
Protect Families First
Queer Detainee Empowerment Project
Quixote Center
RAICES
Rian Immigrant Center
Reformed Church of Highland Park
Revolve Impact
Roots in Healing Psychotherapy & Consultation Services
Rural Women's Health Project
Salvation and Social Justice
Rian Immigrant Center
San Diego Immigrant Rights Consortium
Seattle University School of Law Gender Violence Immigration Clinic

Showing Up for Racial Justice
Side With Love
Siembra NC
South Asian Americans Leading Together
South Bay People Power
South Florida Interfaith Worker Justice
Southeast Immigrant Rights Network (SEIRN)
Southern Poverty Law Center
StoptheDrugWar.org
Surveillance Technology Oversight Project - S.T.O.P.
Texas Civil Rights Project
Taos Immigrant Allies
Tucson SURJ (Showing Up for Racial Justice)
UCLA Latino Policy & Politics Initiative
United We Dream
Unitarian Universalist Association
Unitarian Universalist Service Committee
University of Michigan Prison Creative Arts Project
Washington Defender Association
WeCount!
William C. Velasquez Institute
Women of Color Sexual Health Network
Women's March
Worth Rises
YWCA Greater Austin