



## United States Conference of Catholic Bishops

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April 9, 2020

The Honorable Lindsey Graham  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

The Honorable Dianne Feinstein  
Ranking Member  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

The Honorable Jerrold Nadler  
Chairman  
Committee on the Judiciary  
United States House of Representatives  
Washington, D.C. 20515

The Honorable Jim Jordan  
Ranking Member  
Committee on the Judiciary  
United States House of Representatives  
Washington, D.C. 20515

Dear Chairman Graham, Ranking Member Feinstein, Chairman Nadler, and Ranking Member Jordan,

We commend you and your colleagues on the swift and bipartisan manner in which Congress has responded to the health and economic crises our nation is facing as a result of the novel coronavirus. We express our appreciation for the helpful provisions that were included in the legislative packages enacted so far in response to the crisis and offer suggestions on further legislative steps we believe are urgently needed.

We write to raise a Copyright Act issue with you and to intercede on behalf of persons in jails, prisons, and detention facilities, who are especially vulnerable to contagion and illness in the midst of this pandemic. We also encourage you to allow all persons to access COVID testing and treatment, regardless of immigration status, without fear of deportation or excludability.

### **Coronavirus and Fair Use**

We ask that Congress make the Copyright Act's fair use provision easier to employ given the copyright issues that have emerged with increased livestreaming of distance learning and remote worship services during the pandemic.

### **Coronavirus, the Criminal Justice System and the Immigrant Detention System**

Coronavirus infections are already mounting within the federal prison and immigrant detention systems, and prisoners are dying. The Judiciary Committee should encode in legislation that **older detainees, juveniles, and those with underlying health conditions should be offered expedited review for possible release under an expanded clemency framework.** This work would strengthen the directive of the Attorney General, released on Friday, which calls for expedited release of vulnerable inmates to home confinement. Facilities will need significant additional medical resources for caring for those who do get sick.

Additionally, vulnerable individuals, such as those with chronic illnesses, physical or mental health ailments, people age 60 and over, and people whose housing placements restrict access to

medical care, should be humanely paroled from detention facilities. Detained asylum-seekers who have passed their Credible Fear Interviews should be enrolled into a variety of existing alternatives to detention including electronic management and case management.

Certain fees related to the criminal justice and immigrant detention systems should be waived, as well as fees for phone and video calls.

Incentives and resources should be provided to states to encourage and enable them to implement these policies as well.

### **Automatic Extensions of Work Permits and Immigration Benefits**

At a time of national uncertainty, individuals awaiting adjudication of immigration benefits, dealing with the USCIS office closures, and/or anticipating the potential loss of work authorization are living under the looming threat of a loss of status and livelihood simply because of the inability of the federal government to process applications during the course of the pandemic. While USCIS is allowing individuals to use prior biometrics data to submit work authorization requests, there is a great deal of uncertainty about their ability to continue processing requests and petitions. We make the following recommendations:

**Automatically extend nonimmigrant or temporary status to prevent confusion and dire consequences for their immigration status in the future, and automatically extend work authorization for the length of time that the individual previously was work authorized.** Individuals with DACA and TPS or seeking asylum face tremendous uncertainty about their ability to extend work authorization, as do agricultural workers, who are essential workers.

### **Coronavirus and Public Charge**

We have previously expressed deep concern that the new Public Charge rule deters low income immigrants, in times of hardship, to avoid vital health care so as not to risk deportation. To ensure immigrants are not deterred from testing and health care related to COVID-19, we make the following recommendations:

**Ensure that those who utilize COVID-19 testing and treatment will not later be held deportable or excludable as a public charge.** This could be accomplished by ensuring that testing and treatment for COVID-19 and related conditions are considered treatment for an emergency condition under 42 U.S.C. 1396b(v) and thereby do not count as a public charge.

Halt the application during the COVID-19 crisis of the new Department of Homeland Security (DHS) and Department of State (DOS) public charge rules that took effect on February 24, 2020. The regulations have deterred immigrants and their U.S. citizen family members from seeking health, nutrition assistance, and other essential services.

### **Coronavirus and Immigration Enforcement**

We are concerned that continuing immigration enforcement and detention practices through the course of the COVID-19 has put lives at risk and threatened public safety by rapidly expelling

children and families under an unprecedented new rule that circumvents long-standing, bipartisan protections for asylum-seekers and unaccompanied children. Notably, ICE has yet to provide its written policies or procedures regarding COVID-19, including how it is identifying detained immigrants who may have COVID-19 or are otherwise more susceptible to contracting it. Individuals who are elderly, pregnant and at-risk continue to be detained. Additionally, Customs and Border Protection (CBP) currently is not upholding its obligations under the Trafficking Victims Protection Reauthorization Act (TVPRA) to process unaccompanied children.

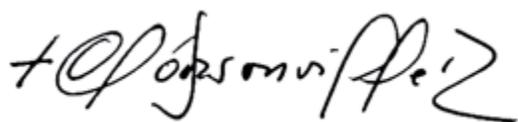
The next stimulus package should:

- Require ICE and CBP to use all available discretionary powers to release all immigrants who pose no safety risks from detention utilizing humanitarian parole, release on recognizance, and alternatives to detention.
- Require CBP to drastically reduce the number of people in their custody and restrict prolonged detention while ensuring access to asylum and processing unaccompanied children and to publicly report on a continual periodic basis the number of CBP staff or detainees who have contracted COVID-19.

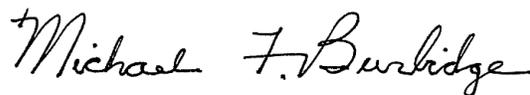
In the current climate, unprecedented for our times, those entrusted with positions of authority should act swiftly and decisively to mitigate acute illness and death, which will disproportionately affect those who are afraid or unable to seek treatment and those who are contained in facilities with high densities of people and therefore face higher probabilities of transmission than the general population. We call on you to leverage your authority on behalf of these vulnerable populations to prevent unnecessary death and illness.

We are praying for you and for all of our nation's leaders. Thank you for your consideration of these requests.

Sincerely,



Most Reverend Mario E. Dorsonville  
Auxiliary Bishop of Washington  
Chairman, Committee on Migration



Most Reverend Michael F. Burbidge  
Bishop of Arlington  
Chairman, Committee on Communications



Most Reverend Paul S. Coakley  
Archbishop of Oklahoma City  
Chairman, Committee on Domestic Justice  
and Human Development