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January 27, 2022

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

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

Dear Secretary Mayorkas and Acting Director Johnson,

As concerned medical school faculty, we write to express serious concerns about U.S. Immigration and Customs Enforcement's (ICE) failure to provide COVID-19 vaccine booster doses to eligible immigrants held in ICE detention facilities nationwide.

The COVID-19 pandemic and the recent emergence of the Omicron variant pose a grave danger to the health and safety of more than 21,000 people held in ICE custody each day.<sup>1</sup> The congregate nature of detention and the inability of detained people to maintain social distance from others have led to elevated rates of COVID-19 in ICE facilities. Over the course of the pandemic, COVID-19 infections in immigration detention have reached rates 20 times higher than in the general public.<sup>2</sup>

In recent weeks, the Omicron variant has spread quickly in ICE detention. The number of COVID-19 infections in immigration detention rose by 520 percent in the first two weeks of January 2022 alone.<sup>3</sup> As of January 27, 2022, 3,129 people in ICE custody have tested positive for COVID-19, comprising over 14 percent of the 21,602 people currently detained nationwide.<sup>4</sup> It is now clear that booster doses of mRNA vaccines provide the most critical protection against serious illness and death from COVID-19.<sup>5</sup> Data published by the Centers for Disease Control and Prevention (CDC) have demonstrated that Pfizer-BioNTech and Moderna booster shots are 90 percent effective against hospitalization with the Omicron variant; by comparison, without boosters, the Pfizer-BioNTech and Moderna vaccines are only 57 percent effective against

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<sup>1</sup> ICE, COVID-19 ICE Detainee Statistics by Facility (last updated Jan. 20, 2022), <https://www.ice.gov/coronavirus#detStat>.

<sup>2</sup> Isabelle Niu and Emily Rhyne, "4 Takeaways From Our Investigation Into ICE's Mishandling of Covid-19" (updated Apr. 26, 2021), *New York Times*, <https://www.nytimes.com/2021/04/25/video/immigration-detention-covid-takeaways.html?searchResultPosition=2>.

<sup>3</sup> Camilo Montoya-Galvez, "Coronavirus infections inside U.S. immigration detention centers surge by 520% in 2022," *CBS News* (Jan. 14, 2022), <https://www.cbsnews.com/news/immigration-detention-covid-cases-surge/>.

<sup>4</sup> ICE, COVID-19 ICE Detainee Statistics by Facility (last updated Jan. 20, 2022), <https://www.ice.gov/coronavirus#detStat>.

<sup>5</sup> E.K. Accorsi, A. Britton, K.E. Fleming-Dutra, et al, "Association Between 3 Doses of mRNA COVID-19 Vaccine and Symptomatic Infection Caused by the SARS-CoV-2 Omicron and Delta Variants," *JAMA*, Published online January 21, 2022. doi:10.1001/jama.2022.0470.



hospitalization.<sup>6</sup> The risk of hospitalization for unvaccinated people is 14 times higher than for fully vaccinated people with booster doses, and four times higher than for vaccinated people without a booster dose. The risk of death for unvaccinated people is 53 times higher than for fully vaccinated people with booster doses, and 2.8 times higher than for vaccinated people without a booster dose.<sup>7</sup>

The CDC has recognized the importance of this additional protection, and most recently recommended COVID-19 booster shots to all people who received the Johnson & Johnson COVID-19 vaccine two or more months ago, and to all people ages 18 or older who received either the Pfizer or Moderna COVID-19 vaccine five or more months ago.<sup>8</sup>

In spite of the urgent and active threat that COVID-19 poses to people in detention, ICE has, to this date, failed to issue any policy or protocol regarding COVID-19 booster shots for its 200+ immigration detention facilities in the United States.<sup>9</sup> This policy failure and lack of oversight has left thousands of detained people without access to this important protective tool against COVID-19. According to the most recent data available, as of January 5, only 671 immigrants – or just over 3 percent – in ICE detention had received COVID-19 booster vaccines *nationwide*.<sup>10</sup> As medical professionals, we urge ICE to immediately identify people in their custody who are eligible for boosters, provide education about the importance of boosters, and, most importantly, provide booster shots to eligible detainees.

Moreover, we emphasize the need for ICE detention facilities to offer mRNA vaccine and booster doses, instead of viral vector vaccines (Johnson & Johnson), to people in their custody. Following a unanimous recommendation of the Advisory Committee on Immunization Practices, the CDC has emphasized that in light of data on vaccine effectiveness, vaccine safety, and rare adverse events, there is “a clinical preference that individuals receive an mRNA COVID-19 vaccine over Johnson & Johnson’s COVID-19 vaccine.”<sup>11</sup> For these reasons, mRNA vaccines and booster shots have emerged as the consensus, professional standard of care for patients. Offering only a viral vector vaccine booster such as Johnson & Johnson to the

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<sup>6</sup> M.G. Thompson, K. Natarajan, S.A. Irving, et al, “Effectiveness of a Third Dose of mRNA Vaccines Against COVID-19–Associated Emergency Department and Urgent Care Encounters and Hospitalizations Among Adults During Periods of Delta and Omicron Variant Predominance — VISION Network, 10 States, August 2021–January 2022,” *MMWR Morb Mortal Wkly Rep*, ePub: 21 January 2022. DOI: <http://dx.doi.org/10.15585/mmwr.mm7104e3>.

<sup>7</sup> A.G. Johnson, A.B. Amin, A.R. Ali AR, et al, “COVID-19 Incidence and Death Rates Among Unvaccinated and Fully Vaccinated Adults with and Without Booster Doses During Periods of Delta and Omicron Variant Emergence — 25 U.S. Jurisdictions, April 4–December 25, 2021,” *MMWR Morb Mortal Wkly Rep*, ePub: 21 January 2022. DOI: <http://dx.doi.org/10.15585/mmwr.mm7104e2>.

<sup>8</sup> CDC, “COVID-19 Vaccine Booster Shots (updated Jan. 19, 2022),” <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/booster-shot.html>. The CDC also recommended boosters for everyone living in high-risk settings such as detention centers in October 2021, more than three months ago. See CDC, “CDC Expands Eligibility for COVID-19 Booster Shots (Oct. 21, 2021),” <https://www.cdc.gov/media/releases/2021/p1021-covid-booster.html>.

<sup>9</sup> Letter from ACLU to Hon. Alejandro Mayorkas, Sec. Dep’t Homeland Security (Dec. 15, 2021), ACLU, <https://www.aclu.org/letter/letter-demanding-dhs-provide-covid-19-vaccine-boosters-people-ice-detention>.

<sup>10</sup> Montoya-Galvez, “Coronavirus infections inside U.S. immigration detention centers surge.”

<sup>11</sup> CDC, “CDC Endorses ACIP’s Updated COVID-19 Vaccine Recommendations,” Dec. 16, 2021, <https://www.cdc.gov/media/releases/2021/s1216-covid-19-vaccines.html>.



exclusion of an mRNA vaccine booster to a patient would fall below this standard of care. Although the CDC has allowed the use of Johnson & Johnson vaccines in limited circumstances, including situations where patients would otherwise remain unvaccinated due to limited access to mRNA vaccines,<sup>12</sup> the CDC has also noted that “the U.S. supply of mRNA vaccines is abundant – with nearly 100 million doses in the field for immediate use.”<sup>13</sup> It is our belief that, as a federal agency, ICE can and should act quickly to secure mRNA vaccine doses to provide to all people in their custody.

Although the safest place for people during the COVID-19 pandemic is outside of detention, for those ICE insists on detaining, we urge ICE to act quickly to ensure robust protection of those in their care against COVID-19.

Sincerely,

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<sup>12</sup> CDC, “Johnson & Johnson’s Janssen COVID-19 Vaccine Overview and Safety (Dec. 28, 2021),” <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/different-vaccines/janssen.html>.

<sup>13</sup> CDC, “CDC Endorses ACIP’s Updated COVID-19 Vaccine Recommendations,” Dec. 16, 2021, <https://www.cdc.gov/media/releases/2021/s1216-covid-19-vaccines.html>.



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