

Congress of the United States
Washington, DC 20515

February 8, 2021

The Honorable Alejandro Mayorkas
Secretary
Department of Homeland Security
301 7th Street, SW
Washington, DC 20528

Dear Secretary Mayorkas:

We write to express our grave concern about a recent string of mass deportation flights of Black people to Haiti over the last week. As members of Congress that proudly represent large Black immigrant communities, we are outraged by ICE's persistent terrorization of our neighbors.

One recent case in particular illustrates the violence that ICE is continuing to exact on our communities in defiance of President Biden's moratorium on deportations. In the dark, early hours of Tuesday, February 2, 2021, ICE deported Paul Pierrilus to Haiti. Mr. Pierrilus is not a citizen of Haiti. Mr. Pierrilus had never even been to Haiti. And Mr. Pierrilus could not lawfully be removed to Haiti. Haiti is roughly 1,500 miles from the Rockland County, New York community that has long welcomed Mr. Pierrilus as a beloved neighbor. In spite of these facts, ICE deported Mr. Pierrilus anyway.

This is not the first time ICE unlawfully attempted to deport Mr. Pierrilus to Haiti. On January 11, 2021, ICE detained Mr. Pierrilus without warning and without cause when he voluntarily reported to the ICE New York City Field Office. In the days that followed, ICE transported him to Louisiana, where he was held in a detention facility. On January 19, ICE shackled Mr. Pierrilus, hauled him to Louisiana's Alexandria International Airport, and began to force him to board a plane to Haiti. At the last possible moment, an officer approached and took him away from the plane. Had it not been for the intervention of Mr. Pierrilus' attorneys at Haitian Bridge Alliance and the Office of Congressman Mondaire Jones, Mr. Pierrilus would have been deported in that moment.¹

As of this letter, we do not know exactly where Mr. Pierrilus is — or when the government of the United States, the nation he has called home for the last 35 years, will welcome him back.

¹ For public reporting on Mr. Pierrilus's case, *see* Nancy Cutler, *Spring Valley Man Deported to Haiti, Even Though He's Never Been There*, Journal News (Feb. 2, 2021), <https://www.lohud.com/story/news/local/rockland/2021/02/02/ice-deports-new-york-man-haiti-but-he-not-haitian-citizen/4361551001/>; Arelis R. Hernández, *In One of Its Last Acts, Trump Administration Tried to Deport Man to Haiti Who Has Never Been There*, Washington Post (Jan. 21, 2021), https://www.washingtonpost.com/immigration/in-one-of-its-last-acts-trump-administration-tried-to-deport-man-to-haiti-who-has-never-been-there/2021/01/20/738d88e4-5b49-11eb-a976-bad6431e03e2_story.html.

As Members of Congress who proudly represent large immigrant communities, we write on behalf of Paul Pierrilus, and on behalf of untold numbers of constituents, neighbors, friends, and family members like Mr. Pierrilus whom ICE has deported. We are appalled by these recent deportations in defiance of President Biden's executive order and your predecessor's immigration enforcement guidance. We urge you to immediately halt these cruel, unnecessary removals and secure safety, due process, and justice for all.

We are gravely concerned that ICE is disparately targeting Black asylum-seekers and immigrants for detention, torture, and deportation. Many of these members of our communities are reportedly coerced and abused in for-profit detention facilities, such as the Winn Correctional Center in Winnfield, Louisiana, then abruptly flown by ICE Air chartered aircraft to countries where they cannot safely return (*e.g.*, Cameroon, Ethiopia, and Haiti), even while their legal challenges to their removals are pending.²

No law or policy compels these abuses and deportations, and they appear to defy your predecessor's own directives. On January 20, 2021, President Biden issued an executive order directing the Department of Homeland Security (DHS) to revise its immigration enforcement guidance to "safeguard the dignity and well-being of all families and communities."³ In response, your predecessor, Acting Secretary David Pekoske, imposed an immediate, 100-day moratorium on the vast majority of deportations. In addition, the Acting Secretary ordered DHS to use its discretion to prioritize removals necessary to protect U.S. national security, address unlawful entry after November 1, 2020, and mitigate immediate threats to public safety by people convicted of aggravated felonies.⁴ There is no evidence that the people recently deported meet any of these criteria.

On January 26, 2021, Judge Drew B. Tipton granted a temporary restraining order (TRO) enjoining enforcement of your predecessor's 100-day moratorium on deportations. However, nothing in that TRO required ICE to expedite deportations or prioritize the people they have targeted. Moreover, that TRO did not prevent the Department's interim enforcement priorities from taking effect.

We are also concerned that these deportations were facilitated by a dubious, last-minute agreement to entrench the Trump Administration's immigration policies. According to the recent report of a protected federal whistleblower, on January 19, 2021, Kenneth T. Cuccinelli II —

² For public reporting on this matter, *see* Zolan Kanno-Youngs and Michael D. Shear, *Trump Loyalists Across Homeland Security Could Vex Biden's Immigration Policies*, New York Times (Feb. 3, 2021), <https://www.nytimes.com/2021/02/03/us/politics/biden-trump-immigration.html?action=click&module=Top%20Stories&pgtype=Homepage>; Molly O'Toole and Andrea Castillo, *'Betrayed' Black Asylum Seekers Say Trump Administration is Ramping Up Deportations by Force and Fraud*, Los Angeles Times (Nov. 27, 2020), <https://www.latimes.com/politics/story/2020-11-27/black-asylum-seekers-trump-officials-push-deportations>.

³ Executive Order on the Revision of Civil Immigration Enforcement Policies and Priorities, E.O. 13993 of Jan. 20, 2021, <https://www.federalregister.gov/documents/2021/01/25/2021-01768/revision-of-civil-immigration-enforcement-policies-and-priorities>.

⁴ Acting Secretary David Pekoske, *Review of and Interim Revision to Civil Immigration Enforcement and Removal Policies and Priorities*, Department of Homeland Security (Jan. 20, 2021), https://www.dhs.gov/sites/default/files/publications/21_0120_enforcement-memo_signed.pdf.

then the Senior Official Performing the Duties of the Deputy Secretary of the Department of Homeland Security — signed an unlawful agreement with AFGE National ICE Council 118 (NIC 118). The terms of that agreement grant NIC 118, the union representing thousands of ICE employees, extraordinary powers to delay changes to immigration enforcement policies and practices.⁵ If the whistleblower’s report is correct, you have until February 17, 2021 to exercise your authority under 5 U.S.C. § 7114(c) to disapprove this contract, thereby preventing it from taking effect, and restore the Department’s power to set immigration enforcement policies and priorities.

As you review this matter, we request your responses to several pressing questions:

1. Why is ICE proceeding with or expediting the aforementioned deportations, despite the deportation moratorium and interim enforcement priorities?
2. Acting Secretary Pekoske’s enforcement guidance states that the Acting Director of ICE “shall issue operational guidance on the implementation of these priorities” and “ensure consistency” between the priorities and ICE practice.⁶ What guidance has ICE issued in response to this directive?
3. What guidance did Acting Secretary Pekoske issue to ICE with respect to Judge Tipton’s TRO?
4. What guidance have you already issued, or what guidance do you plan to issue, to ICE with respect to the TRO and enforcement of your predecessor’s deportation moratorium?
5. Do you plan to exercise your authority under 5 U.S.C. § 7114(c) to formally disapprove the January 19, 2021 agreement between ICE and NIC 118, by the February 17, 2021 deadline?
6. What steps will you take to ensure that ICE officers — like all government employees — follow the law and implement the directives of the Biden Administration?
7. Will there be a process for Paul Pierrilus and the many others that were wrongfully deported from their communities to return to the United States? If so, when will they be returned home to the United States?

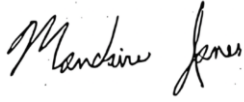
All too often under the Trump Administration, the cruelty was the point, and unlawful misconduct was the means of inflicting it. We urge the Biden Administration to ensure that our immigration system pursues humane, equitable ends by lawful means.

Thank you for your immediate attention to this vital matter.

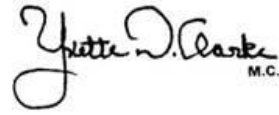
⁵ David Z. Seide, Government Accountability Project, *Letter Re: Protected Whistleblower Disclosures by Former DHS Political Appointee Kenneth T. Cuccinelli* (Feb. 1, 2021), <https://int.nyt.com/data/documenttools/whistleblower-complaint-on-cuccinelli-and-ice-union-employment-agreements/1ace69fe8ae349e1/full.pdf>.

⁶ Acting Secretary David Pekoske, *Review of and Interim Revision to Civil Immigration Enforcement and Removal Policies and Priorities*, Department of Homeland Security (Jan. 20, 2021), https://www.dhs.gov/sites/default/files/publications/21_0120_enforcement-memo_signed.pdf.

Sincerely,



Mondaire Jones
Member of Congress



Yvette D. Clarke
Member of Congress



Ayanna Pressley
Member of Congress



Ritchie Torres
Member of Congress

/s/ Henry C. "Hank" Johnson, Jr.
Member of Congress

/s/ Gregory W. Meeks
Member of Congress

/s/ Karen Bass
Member of Congress

/s/ Marc Veasey
Member of Congress

/s/ Dwight Evans
Member of Congress

/s/ Val Butler Demings
Member of Congress

/s/ Ilhan Omar
Member of Congress

/s/ Nikema Williams
Member of Congress