

**WHEREAS**, on March 7th, 2020, I issued Executive Order Number 171, declaring a state disaster emergency for the entire State of New Jersey;

**WHEREAS**, 175,915 cases of COVID-19 have been documented in New Jersey State, including positive cases resulting from both travel-related and community contact transmission and are expected to continue;

**WHEREAS**, detention centers in New Jersey were among the first in the country where a confirmed case of COVID-19 was reported and, to date, Immigration & Customs Enforcement (ICE) has confirmed 42 cases of COVID-19 in ICE custody in New Jersey State;

**WHEREAS**, the total number of confirmed cases is likely much higher than 40 due to lack of access to testing, failure to disclose how many have been tested, inconsistent reporting methodology, suppression of information regarding COVID-19 testing conducted by New Jersey Department of Corrections, and failure to disclose positive cases of COVID19 among its third party contract staff;

**WHEREAS**, direct reports from inside detention facilities confirm alarming lack of preparedness by ICE to respond to this pandemic, including a lack of personal protective equipment (PPE), a lack of staff/guard compliance with health protocols requiring PPE use at all times, medical neglect of immigrants presenting with symptoms, lack of access to soap, inability to maintain six feet of physical distance in accordance to CDC guidelines, a continuation of transfers between immigrant prisons without appropriate screening and medical isolation, and continuation of dangerous medical isolation procedures that group people who may have come into contact with COVID-19 together in a manner that virtually ensures exposure to COVID-19;

**WHEREAS**, detention centers in New Jersey were already at triple capacity just two years ago, making physical distancing a near certain impossibility, and detention centers with reduced detention levels continue to disregard public health guidelines regarding access to PPE and administration of testing;

**WHEREAS**, even before COVID19 was first detected in detention, ICE had demonstrated its inability to ensure a basic level of care for persons in its custody, both in New Jersey and elsewhere in the country;

**WHEREAS**, in May 2016, a complaint submitted by Freedom for Immigrants (formerly CIVIC) and First Friends of New Jersey, reported poor medical care on behalf of 61 people detained at Hudson County Correctional Facility, including extended delays in responding to people's requests for medical care, delay or denial of care for serious conditions, unlawful medical charges for people in ICE custody, and poor sanitation leading to multiple people getting fungus or bacterial infections;

**WHEREAS**, urgent action is required to prevent our country's immigration detention system from causing countless unnecessary deaths. Public health experts have already recommended reducing prison and detention populations in response to the COVID-19 pandemic and warn that,

if detention levels are not dramatically reduced, COVID-19 cases in ICE facilities will increase, with a potential for as many as 72 percent of people in ICE detention contracting COVID-19 by August 15, 2020, placing a burden on local health care systems;

**WHEREAS**, an increased rate of transmissions and infections inside detention centers in New Jersey directly impacts and places a burden on the New Jersey health care infrastructure, increasing risk of transmission and death and directly undermining our state's public health efforts to combat the pandemic and poses a risk for everyone in the community;

**WHEREAS**, New Jersey Chief Justice Stuart Rabner signed an order on March 22, 2020, authorizing the release of as many as 1,000 people from its jails in what is believed to be the nation's broadest effort to address the risks of COVID-19 in jail;

**WHEREAS**, New Jersey has already established itself as a leader in the country on decarceration, and, according to the Sentencing Project, has successfully decreased the state's inmate population by 30 percent over the past 30 years—more than any other state in the country;

**WHEREAS**, in November 2018, New Jersey Attorney General Gurbir Grewal issued the “Immigrant Trust Directive”—a landmark statewide policy designed to protect the state's diverse immigrant communities by limiting law enforcement agencies from becoming entangled in immigration enforcement activities and restricting the use of public safety dollars to carry out the federal government's deportation dragnet;

**WHEREAS**, New Jersey's local and state law enforcement agencies actively populate immigration detention centers by transferring people to ICE custody on a regular basis;

**WHEREAS**, pursuant to 8 C.F.R. §287.7, any assistance provided by a state or county in responding to a request from ICE, including a transfer request, is voluntary, and ending this voluntary practice is imperative to addressing the serious public health risk posed to New Jersey communities and the state's health systems,

**WHEREAS**, the governor has the authority to act unilaterally to direct the New Jersey Department of Corrections (NJDOC), as an agency under his control, to stop complying with any and all immigration requests, including transfers, and the governor has the authority to direct the attorney general to order local law enforcement agencies to stop transfers during the state of emergency;

**WHEREAS**, in addition to the transfer of individuals from law enforcement to ICE custody, the continued use and expansion of immigration detention is a significant driver of the growing population in detention;

**WHEREAS**, existing federal law authorizes localities and states to enter into contracts or agreements with the United States Attorney General that grant access to detention or

incarceration space or facilities, or authorize a local or state officer or employee to detain aliens in the United States;

**WHEREAS**, detention poses significant health risks that during a global pandemic present a unique threat to public health;

**NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:**

1. A city, county, municipality, or a local law enforcement agency shall not enter into or renew a contract, or modify a contract to extend the length of the contract, with a private corporation, contractor, or vendor to detain an adult noncitizen in civil immigration custody.
2. A city, county, municipality, or a local law enforcement agency shall not enter into or renew a contract, or modify a contract to extend the length of the contract, with the federal government or any federal agency to house or detain an adult noncitizen in a locked detention facility for purposes of civil immigration custody.
3. Any state or local correctional facility that currently responds to any ICE request for notification of release, to detain the individual for any period of time beyond their scheduled release, or in any other manner facilitates the transfer of individuals in their custody to ICE is hereby directed to immediately suspend any such activities.

G I V E N under my hand and the Privy Seal of the State in the City of Trenton the [INSERT DAY] day of [INSERT MONTH] in the year two thousand twenty.

BY THE GOVERNOR

Secretary to the Governor