

February 7, 2025

The Honorable Kristi Noem  
Secretary of Homeland Security  
U.S. Department of Homeland Security  
2707 Martin Luther King Jr. Avenue, SE  
Washington, DC 20528

The Honorable Pete Hegseth  
Secretary of Defense  
U.S. Department of Defense  
1000 Defense Pentagon  
Washington, DC 20301

The Honorable Marco Rubio  
Secretary of State  
U.S. State Department  
2201 C Street, NW  
Washington, DC 20520



*VIA EMAIL*

**Re: Urgent Request for Access to and Information Regarding  
Immigrants Transferred from the United States and Detained at  
Guantánamo Bay**

Dear Secretary Noem, Secretary Hegseth, and Secretary Rubio:

**We write on behalf of the undersigned immigrants' rights and civil rights organizations to request immediate access to the noncitizens transferred from immigration detention facilities in the United States and currently detained at the U.S. Naval Base at Guantánamo Bay, Cuba.** Since February 4, 2025, the government has transferred nearly two dozen noncitizens to Guantánamo, without providing any information about their circumstances or the government's legal authority for these unprecedented actions. The government has also announced that it is planning to send tens of thousands of additional immigration detainees to Guantánamo in the near future.

The Constitution, and federal and international law prohibit the government from using Guantánamo as a legal black hole. We therefore request that the government provide our organizations access to the noncitizens detained at Guantánamo so that those individuals will have access to legal counsel, and so advocates and the public can understand the conditions under which the government is detaining them. We also request basic

information that the public has a right to know regarding the noncitizens being sent to Guantánamo and the government’s plans for them.

## **Background**

On January 29, President Donald Trump issued a memorandum directing the Secretary of Defense and Secretary of Homeland Security “to take all appropriate actions to expand the Migrant Operations Center at Naval Station Guantanamo Bay to full capacity to provide additional detention space for high-priority criminal aliens unlawfully present in the United States.”<sup>1</sup> The Migrant Operations Center (“MOC”) has thus far only been used to house migrants interdicted at high sea while they await refugee resettlement, and only has present capacity to hold at most 200 people.<sup>2</sup> A report last year describes how the U.S. government interdicts refugee families at sea and detains them indefinitely in inhumane conditions at the MOC, where they effectively have no confidential means of communicating with the outside world, including counsel.<sup>3</sup> The report details the appalling living conditions at the MOC, including the lack of basic necessities like potable water; dilapidated housing with mold, rats, overflowing showers and “toilets spewing sewage”; and inadequate access to medical and mental health care, as well as no education for minors.<sup>4</sup>

Recent reports confirm that the U.S. government has diverted hundreds of troops to Guantánamo to start setting up a tent city for noncitizens, pursuant to President Trump’s orders.<sup>5</sup> Yet officials also confirm that they are “far from prepared” to house the number of people envisioned in the President’s memo.<sup>6</sup>

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<sup>1</sup> The White House, “Expanding Migrant Operations Center at Naval Station Guantanamo Bay to Full Capacity” (Jan. 29, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/expanding-migrant-operations-center-at-naval-station-guantanamo-bay-to-full-capacity/>.

<sup>2</sup> Courtney Kube, et al., *Trump admin plans to use notorious Guantánamo detention facility and nearby tents to hold immigrants*, NBC News (Feb. 5, 2025), <https://www.nbcnews.com/politics/national-security/trump-admin-plans-use-notorious-guantanamo-detention-facility-nearby-t-rcna190707>.

<sup>3</sup> International Refugee Assistance Project, *Offshoring Human Rights: Detention of Refugees at Guantánamo Bay* (Sept. 2024), <https://refugeerights.org/wp-content/uploads/2024/09/Offshoring-Human-Rights-Guantanamo-Bay-English-Report-September-2024-1.pdf>.

<sup>4</sup> *Id.* at 14-21.

<sup>5</sup> Carol Rosenberg & Eric Schmitt, *Guantánamo Bay Prepares for President Trump’s Migrant Surge*, N.Y. Times (Feb. 3, 2025), <https://www.nytimes.com/2025/02/03/us/politics/guantanamo-trump-migrants.html>.

<sup>6</sup> Michael Williams & Haley Britzky, *Trump directs Guantanamo Bay to be prepared to host up to 30,000 migrants*, CNN (Jan. 29, 2025),



Indeed, lawyers in the Trump administration are still reviewing the legality of sending immigrants to Guantánamo from immigration detention facilities inside the United States.<sup>7</sup> Questions abound regarding the authority for these transfers, which agency will have custody of the noncitizens, where they would be housed, and how the government will carry out the complicated and expensive logistics of this operation while respecting its legal obligations and the rights of noncitizens in the government’s custody.

Despite these critical and yet unanswered questions, the U.S. government transferred ten Venezuelan noncitizens from the Fort Bliss, TX Army base to Cuba on February 4,<sup>8</sup> followed by a second flight on February 6 with plans for more flights in the coming days.<sup>9</sup> The government has provided virtually no information about these individuals, including how long they will be held at Guantánamo, under what authority and conditions, or whether they have any means of communicating with their family and attorneys. At the time of this letter, it appears that they are being detained in the same prison housing law of war detainees,<sup>10</sup> underscoring the troubling nature of the government’s policies and plans for these and other migrants it intends to detain on Guantánamo.

### **Request for Access and Information**

The undersigned groups represent and advocate for immigrants in a variety of ways, including, but not limited to: representation of noncitizens subject to prolonged immigration detention; litigation to seek access to the asylum system and other humanitarian protections; litigation and advocacy regarding conditions of confinement in immigration detention facilities; Know

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<https://www.cnn.com/2025/01/29/politics/guantanamo-bay-trump-migrants/index.html>.

<sup>7</sup> See *supra* n.2; see also Priscilla Alvarez, et al., *Migrant flight lands in Guantánamo Bay as legal questions swirl around Trump plans*, CNN (Feb. 4, 2025), <https://www.cnn.com/2025/02/04/politics/guantanamo-migrant-flight/index.html>.

<sup>8</sup> C. Todd Lopez, *First Flight of Illegal Aliens Arrives at Guantánamo*. U.S. Dep’t of Defense, (Feb. 5, 2025), <https://www.defense.gov/News/News-Stories/Article/Article/4055497/first-flight-of-illegal-aliens-arrives-at-guantanamo/>.

<sup>9</sup> Camilo Montoya-Galvez & Eleanor Watson, *Trump officials eye daily migrant detainee flights to Guantánamo Bay*, CBS News (Feb. 6, 2025), <https://www.cbsnews.com/news/trump-officials-eye-daily-migrant-detainee-flights-to-guantanamo-bay/>.

<sup>10</sup> Hamed Aleaziz et al., *U.S. Is Holding Migrants in Cells That Once Held Al Qaeda Suspects*, N.Y. Times (Feb. 5, 2025), <https://www.nytimes.com/2025/02/05/us/politics/migrants-trump-guantanamo-prison.html>.



Your Rights education to noncitizens regarding their rights in the immigration process, including ways to seek release from detention and their rights to adequate conditions of confinement; representation of noncitizens in their credible fear screenings and in removal proceedings; and, advocacy and public education regarding issues with the U.S. asylum and immigration system.

The noncitizens being held on Guantánamo are not in criminal custody and, therefore, cannot be subject to punitive conditions, including conditions that reduce their access to counsel. Nor are they detainable by the military under any authorization for the use of force. The undersigned groups are entitled to access these individuals for the purpose of advising and providing legal representation. The government cannot attempt to subvert the statutory and constitutional rights afforded to these noncitizens in the United States by transferring them to an offshore prison and holding them incommunicado without access to counsel or any means of contact with the outside world.

We therefore request immediate access to the noncitizens detained at Guantánamo, including free and confidential, unmonitored phone calls with each noncitizen, and prompt approval for in-person visitation on the base. We maintain that no additional security clearances are necessary beyond those required to visit any individual in immigration custody in the United States.

We also request the following information:

- Immigration status of the noncitizens detained at Guantánamo (including whether they have final orders);
- Who the government intends to transfer to and detain at Guantánamo, including what criteria, legal or otherwise, the administration is or will be using to decide who to transfer and detain at Guantánamo;
- Which government agency has custody of the transferred noncitizens at Guantánamo;
- What authority is the government invoking to transfer noncitizens from the United States to Guantánamo and what authority the government is invoking to hold them at Guantánamo; and,
- Length of time that the government will be holding these noncitizens at Guantánamo and plans for them after.

Please contact Lee Gelernt at [lgelernt@aclu.org](mailto:lgelernt@aclu.org) or (212) 549-2660 to discuss what arrangements can be made to ensure access to detainees in the coming days, and if you have any questions.

Sincerely,

American Civil Liberties Union  
Americans for Immigrant Justice  
Amica Center  
American Gateways

Center for Constitutional Rights  
Haitian Bridge Alliance  
Human Rights First  
International Refugee Assistance Project  
Las Americas Immigrant Advocacy Center  
Lawyers' Committee for Civil Rights of the SF Bay Area  
National Immigrant Justice Center  
National Immigration Law Center  
Refugee and Immigrant Center for Education and Legal Services  
Robert F. Kennedy Human Rights  
Texas Civil Rights Project



CC: Admiral Alvin Holsey  
Commander, United States Southern Command  
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