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The Lawyers' Committee for Civil Rights Under Law (Lawyers' Committee) and the six undersigned groups are gravely concerned about the impact of the CDC's interim guidance [Implementing Safety Practices for Critical Infrastructure Workers Who May Have Had Exposure to a Person with Suspected or Confirmed COVID-19](#) ("Guidance") on the communities we serve, and respectfully submit this Request for Correction. The Lawyers' Committee is a racial justice organization committed to, among other things, increasing access to healthcare and economic opportunities, and ensuring that people of color can lead dignified lives free from discrimination.

In April, the [National Employment Law Project](#) and the [National Council on Occupational Safety and Health](#) joined by more than 200 advocates led calls for the CDC to retract this harmful guidance, but the Guidance remains on the CDC's website. The Guidance unreasonably exposes vulnerable low-wage workers of color in food processing, agriculture, janitorial, and many other critical infrastructure jobs to COVID-19 by advising they can continue working after being exposed to COVID-19, so long as they are asymptomatic and employers undertake additional measures. We urge the CDC to correct the Guidance to advise critical infrastructure workers to self-quarantine for 14 days after being exposed to COVID-19, that employers should provide their employees exposed to COVID-19 full pay and benefits during their quarantine, and that employers should implement comprehensive engineering and administrative controls including but not limited to providing (1) work places where workers are social distancing on production lines, in break rooms and locker rooms, and (2) any personal protective equipment (PPE) needed to be safe at work.

A. Introduction

The Guidance fails to meet the [CDC's Information Quality Guidelines](#) because it contradicts the CDC's guidance for the general public, which advises individuals who have been exposed to COVID-19 to self-quarantine for 14-days since asymptomatic carriers can transmit the virus. The significant risk of transmission from asymptomatic and pre-symptomatic individuals is [well-established](#), as discussed below. By recommending that asymptomatic workers report to work even after exposure to COVID-19, the Guidance *encourages* the spread of the novel virus and directly threatens the safety of workers of color in congregate workplaces like meatpacking and poultry plants.

According to the most recent [data](#) available at least 32,000 meatpacking employees have tested positive for the coronavirus, and more than 100 have died. Meatpacking plants around the country have seen some of the largest clusters in the nation of infected workers, including more than [1,000](#) cases at Tyson's pork plant in Waterloo, Iowa and more than [500](#) cases at Triumph



Foods in St. Joseph, Missouri. The virus has spread like wildfire in these plants. Not surprisingly, a recent [study](#) found that counties with or near meatpacking plants have almost twice the rate of known COVID-19 infections than the national average. Given these facts, instead of having relaxed standards for critical infrastructure workers, the Guidance should at a minimum be at least as protective of these workers as for the general public if not more protective.

The Guidance harms workers of color overrepresented in low-wage critical infrastructure jobs, and compounds the disproportionately higher rates of COVID-19 infection and mortality among African American and Latino communities. According to the [CDC](#), African Americans currently make up at least 19.3% of COVID-19 cases and nearly 22.1% of COVID-19 deaths, even though African Americans are only [13.4%](#) of the U.S. population. Latinos make up 32.3% of COVID-19 cases, even though they are only [18.3%](#) of the U.S. population. Latinos and African-Americans [comprise](#) 44.4% and 25.2% of frontline meatpacking workers, respectively. African Americans comprise 31.4% of bus service and urban transit workers,¹ and Latinos comprise 31.6% of janitorial workers.² The Guidance must be promptly corrected to increase workplace safety and protect the health of vulnerable workers.

B. The Guidance Errs in Requiring Asymptomatic Workers to Return to Work after Being Exposed to COVID-19, Instead of Self-Quarantining

The first sentence of the Guidance states, “To ensure continuity of operations of essential functions, CDC advises that critical infrastructure workers may be permitted to continue work following potential exposure to COVID-19, provided they remain asymptomatic and additional precautions are implemented to protect them and the community.” The sentence is contrary to the advice CDC has provided to the general public, which is to self-quarantine for 14 days. Instead, the sentence should state: “To help limit further spread of COVID-19, CDC advises all workers, including critical infrastructure workers, to self-quarantine for 14 days following exposure to COVID-19.”

The CDC’s [Interim Recommendations](#) for U.S. Households with Suspected or Confirmed Coronavirus Disease 2019 (COVID-19) states, “[r]ecent studies indicate that people who are infected but do not have symptoms likely also play a role in the spread of COVID-19.” The CDC has therefore [advised](#) that people who “feel healthy but [r]ecently had close contact with COVID-19” should self-quarantine and “stay home until 14 days after your last exposure.” The CDC confirms that quarantine can “limit further spread of COVID-19.”

The reason for self-quarantining is based on extensive medical research proving that asymptomatic individuals spread the virus. The NIH has [published research](#) showing that asymptomatic and symptomatic people carry the same viral burden: “Studies have shown higher viral loads in the nasal cavity as compared to the throat with no difference in viral burden between

¹ “Employed persons by detailed industry, sex, race, and Hispanic or Latino ethnicity.” *US Bureau of Labor Statistics*, <https://www.bls.gov/cps/cpsaat18.htm>.

² “Employed persons by detailed occupation, sex, race, and Hispanic or Latino ethnicity.” *US Bureau of Labor Statistics*, <https://www.bls.gov/cps/cpsaat11.htm>.



symptomatic and asymptomatic people.”³ Further, “infection is transmitted through large droplets generated during coughing and sneezing by symptomatic patients but can also occur from asymptomatic people and before onset of symptoms.”⁴ Research in another [report](#) on the CDC’s website “demonstrates asymptomatic and human-to-human transmission of SARS-CoV-2 infection through close contacts in both familial and hospital settings.”⁵

Other highly reputable medical research institutes echo CDC’s guidance to self-quarantine when there has been exposure to COVID-19. The [Mayo Clinic](#) advises that, “[d]octors or local health departments may ask or require people to go into quarantine who’ve recently had close contact with someone with COVID-19, who might have been exposed to COVID-19, or who’ve recently traveled from a place with ongoing community spread.” The [Cleveland Clinic](#) similarly advises, “[q]uarantines are for people or groups who don’t have symptoms but were exposed to the sickness. A quarantine keeps them away from others so they don’t unknowingly infect anyone.”

We urge the CDC to promptly correct the Guidance to recommend workers self-quarantine for 14 days after exposure to COVID-19. This revision will help slow down the spread of COVID-19 in congregate workplaces, like meatpacking plants and protect the health of marginalized, low-wage workers of color who are risking their lives simply by going to work.

C. The Guidance Further Errs Because the Additional Precautions Will Not Stop the Spread of COVID-19 By Asymptomatic Workers

In addition to advising asymptomatic workers remain on the job after being exposed to COVID-19, the Guidance also recommends that employers undertake additional precautions to help stem the spread of COVID-19. The additional precautions recommended by the Guidance are inadequate to protect worker health and must be corrected. The Guidance recommends:

Critical Infrastructure workers who have had an exposure but remain asymptomatic should adhere to the following practices prior to and during their work shift:

- **Pre-Screen:** Employers should measure the employee’s temperature and assess symptoms prior to them starting work. Ideally, temperature checks should happen before the individual enters the facility.
- **Regular Monitoring:** As long as the employee doesn’t have a temperature or symptoms, they should self-monitor under the supervision of their employer’s occupational health program.

³ Singhal, Tanu. “A Review of Coronavirus Disease-2019 (COVID-19).” *Indian Journal of Pediatrics*, Springer India, Apr. 2020, www.ncbi.nlm.nih.gov/pmc/articles/PMC7090728/.

⁴ *Id.*

⁵ Li C, Ji F, Wang L, Wang L, Hao J, Dai M, et al. Asymptomatic and human-to-human transmission of SARS-CoV-2 in a 2-family cluster, Xuzhou, China. *Emerg Infect Dis.* 2020 Jul [May, 1, 2020]. <https://doi.org/10.3201/eid2607.200718>



- **Wear a Mask:** The employee should wear a face mask at all times while in the workplace for 14 days after last exposure. Employers can issue facemasks or can approve employees' supplied cloth face coverings in the event of shortages.

This portion of the Guidance is flawed because research shows that these measures alone are ineffective in stemming the spread of COVID-19 in densely populated work areas by asymptomatic and pre-symptomatic individuals. We urge the CDC to promptly correct the Guidance as follows:

Critical Infrastructure workers who have had an exposure but remain asymptomatic should not report to work until they have quarantined for 14 days. Employers should provide employees exposed to COVID-19 full pay and benefits during the 14-day quarantine.

Employers should undertake comprehensive administrative and engineering controls to ensure the safety of all of their critical infrastructure workers, including but not limited to implementing workplace social distancing measures on production lines, locker rooms, and break rooms, and providing the personal protective equipment needed to keep them safe while performing their job.

First, employers are ill equipped to properly assess employees' symptoms for COVID-19. The CDC has [recognized](#) that, in a skilled nursing facility setting, “. . . symptom screening could initially fail to identify approximately one half of SNF residents with SARS-CoV-2 infection. Unrecognized asymptomatic and pre-symptomatic infections might contribute to transmission in these settings.”⁶ As the NIH notes, “[t]he clinical features of COVID-19 are varied, ranging from asymptomatic state to acute respiratory distress syndrome and multi organ dysfunction. The common clinical features include fever (not in all), cough, sore throat, headache, fatigue, headache, myalgia and breathlessness. Conjunctivitis has also been described. Thus, COVID-19 symptoms are indistinguishable from other respiratory infections.”⁷ Therefore, the CDC should recommend that employers provide employees exposed to COVID-19 paid sick leave for quarantine purposes, in accordance with the CDC's Interim Guidance for Meat and Poultry Processing Workers and Employers.

Finally, the Guidance should be corrected to advise that employers should provide *all* critical infrastructure employees with administrative and engineering controls including but not limited to social distancing and the personal protective equipment needed to keep them safe while performing their jobs, in alignment with the CDC's Interim Guidance for Meat and Poultry

⁶ “Asymptomatic and Presymptomatic SARS-CoV-2 Infections in Residents of a Long-Term Care Skilled Nursing Facility - King County, Washington, March 2020.” *Centers for Disease Control and Prevention*, 2 Apr. 2020, www.cdc.gov/mmwr/volumes/69/wr/mm6913e1.htm?s_cid=mm6913e1_w.

⁷ *A Review of Coronavirus Disease*, *supra*.



Processing Workers and Employers.⁸ It is insufficient to require that only exposed employees wear masks. The administrative and engineering controls recommendations in the CDC's Interim Guidance for Meat and Poultry Processing Workers should extend to all critical infrastructure employees, and not be limited to meat and poultry processing workers.

D. Conclusion

Ensuring the continuity of critical infrastructure operations must not override the urgent need to maintain the safety and health of all essential workers, including workers of color. Encouraging asymptomatic workers exposed to COVID-19 to continue working is in direct contravention to the CDC's mission of preventing and controlling the spread of infection and disease. The Guidance is a gross departure from the CDC's self-quarantine guidance for the general public and has already resulted in widespread contagion of COVID-19 in many meatpacking plants and other critical infrastructure workplaces. The CDC's Guidance must be promptly updated to reflect standard and widely-accepted health practices that are proven to reduce the spread of COVID-19. If you have any questions regarding this letter, please contact Pilar Whitaker, Counsel at pwhitaker@lawyerscommittee.org.

Sincerely,

Lawyers' Committee for Civil Rights Under Law
Leadership Conference on Civil and Human Rights
National Council for Occupational Safety and Health
National Employment Law Project
North Carolina Justice Center
Service Employees International Union
Southern Poverty Law Center

⁸ <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/meat-poultry-processing-workers-employers.html>.