April 10, 2020

Vice President Michael Pence
The White House
1600 Pennsylvania Avenue N.W.
Washington, D.C. 20050

Dear Vice President Pence:

We write to urge the Coronavirus Task Force to direct the Department of Health and Human Services (HHS) and the Federal Emergency Management Agency (FEMA) to conduct a national inventory of the country's COVID-19 diagnostic test supply, publicly release comprehensive data on testing results, and provide a detailed plan and timeline for addressing future shortages and gaps in the testing supply chain. Currently, the federal government is not meeting its responsibility to coordinate testing capacity among states and Indian Tribes and is failing to release crucial information to the public. We urge you to provide public transparency and leadership without delay.

Over three weeks after President Trump declared the COVID-19 outbreak a national emergency,[1] we continue to hear from our states and Tribal Nations about the lack of supplies and testing kits to diagnose our constituents for the coronavirus. State departments of health, Indian Tribes, hospitals, health care providers, and first responders lack the tests and equipment—including personal protective equipment (PPE), testing swabs, and reagents—needed to conduct adequate public health surveillance to contain and stop the spread of coronavirus.

Widespread diagnostic testing is crucial to controlling the COVID-19 outbreak.[2] In the short term, quickly obtaining test results for hospitalized patients allows hospitals to preserve supplies of PPE[3] and prevents unnecessary quarantines of front-line health care workers and first responders.[4] In the long run, experts have argued that widespread testing will be needed to track

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[1] White House, "Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak," March 13, 2020, https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/

[2] Senator Elizabeth Warren, "Medium: Congress Must Move Rapidly To Increase Our Coronavirus Testing Capacity," March 26, 2020, https://www.warren.senate.gov/newsroom/op-eds/medium-congress-must-move-to-rapidly-increase-our-coronavirus-testing-capacity

[3] Washington Post, "In hard hit areas, testing restricted to health care workers, hospital patients," Carolyn Y. Johnson, Lena H. Sun, and Laurie McGinley, March 21, 2020, https://www.washingtonpost.com/health/2020/03/21/coronavirus-testing-strategyshift/

[4] Twin Cities Pioneer Press, "Coronavirus testing hangups raise concerns for MN front-line health workers," Dave Orrick, March 27, 2020, https://www.twincities.com/2020/03/27/coronavirus-mn-testing-health-care-workers-results-delayed/

and contain COVID-19 cases, allowing communities to slowly lift general social distancing restrictions without putting the public at risk.[5]

The lack of tests is reportedly forcing the administration, in concert with private actors, to funnel available supplies to certain areas. For example, Abbott Labs, which recently developed a rapid 5-minute COVID-19 diagnostic test, said it is, "working with the administration to deploy the tests to areas where they can have the greatest impact," like COVID-19 hot spots.[6] This may explain why, even though the Food and Drug Administration (FDA) has now issued emergency use authorizations (EUAs) for 32 COVID-19 diagnostic tests, many of our states and Tribal Nations have not seen the benefit of this rapid private-sector innovation.[7] While it is important to provide tests for COVID-19 hot spots, tests cannot be limited to those areas. Without prompt and sufficient access to coronavirus tests, we risk exacerbating outbreaks and becoming a nation of hot spots.

Furthermore, the decentralized system of tracking tests and the corresponding lack of transparency into when and where these tests are being sent makes it challenging for our nation as a whole to systemically plan its public health response to the COVID-19 outbreak.[8] Currently, hospitals are finding that some labs are working through significant backlogs, leaving samples untested for days or weeks, while others are able to turn results around quickly, within 24 to 48 hours.[9] Without detailed information about the capacity and turnaround time for each lab, it is impossible to efficiently distribute testing capacity on the nationwide scale that is required by this crisis. Given the Administration's track record of over-promising and under-delivering on testing for COVID-19,[10] the public deserves full transparency about our national capacity for COVID-19 testing, including where tests are available, how many have been conducted, which patients have access to testing, and what the results of these tests revealed.

These persistent gaps in the availability of COVID-19 diagnostic tests and the lack of public transparency about where tests are available raise the need for a national inventory of COVID-19 diagnostic tests. The recently passed *Coronavirus Aid, Relief, and Economic Security (CARES) Act* granted HHS the authority to collect test results from any laboratory.[11] Additionally, you recently wrote to hospitals asking them to report their internal test results to the Federal Emergency Management Agency (FEMA) on a daily basis, although this

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[5] American Enterprise Institute, "National coronavirus response: A road map to reopening," Scott Gottlieb, Caitlin Rivers, Mark McClellan, Lauren Silvis, and Crystal Watson, March 29, 2020, https://www.aei.org/research-products/report/national-coronavirus-response-a-road-map-to-reopening/

[6] Kaiser Health News, "Trump Touted Abbott's Quick COVID-19 Test. HHS Document Shows Only 5,500 Are On Way for Entire U.S.," Rachana Pradhan, April 2, 2020, https://khn.org/news/trump-touted-abbotts-quick-covid-19-test-hhs-document-shows-only-5500-are-on-way-for-entire-u-s/

[7] Food and Drug Administration, "Emergency Use Authorizations," March 31, 2020, https://www.fda.gov/medical-devices/emergency-situations-medical-devices/emergency-use-authorizations#covid19ivd

[8] POLITICO, "Piecemeal Testing Flusters Officials Tracking Coronavirus Pandemic," Darius Tahir, April 2, 2020, https://www.politico.com/news/2020/04/02/testing-coronavirus-gaps-162360.

[9] The Atlantic, "Private Labs Are Fueling a New Coronavirus Testing Crisis," Alexis Madrigal and Robinson Meyer, March 31, 2020, https://www.theatlantic.com/health/archive/2020/03/next-covid-19-testing-crisis/609193/

[10] *Id.*

[11] CARES Act Section 18115, https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.xml

requirement does not apply to tests conducted by commercial and academic labs.[12] We urge you to extend data collection efforts to commercial and academic labs, coordinate data collection between each agency, the Indian Tribes, and the states, and make the resulting information available to the public as rapidly as possible.

Specifically, this public-facing inventory should provide real-time data that answer the following questions:

1. How many COVID-19 diagnostic tests are available on a daily basis, and to which states and Tribes are manufacturers sending these tests? How many of these tests screen for coronavirus antibodies?
2. To which public health, academic, and commercial laboratories are COVID-19 diagnostic test manufacturers sending tests, and how many tests are being sent to these labs?
3. Which laboratories—public health, academic, and commercial—can run COVID-19 diagnostic tests, and what is their daily capacity to run these tests? Please provide a breakdown of this information by lab type, test type, and state if possible.
4. What is the wait time for laboratories to process and receive results for COVID-19 tests? Do providers have to wait minutes, hours, or days to receive their patients' results?
5. What supplies do America's public health, academic, and commercial laboratories need on hand to run at full capacity to process COVID-19 tests? Which of these supplies are in shortage, and what steps is the Administration taking to expand the capacity of these supplies?

Additionally, we request answers to the following questions:

6. In a March 10 interview, Secretary Azar referenced an "IT reporting system… to keep track of how many we're testing." What is the status of this system? What information is tracked in this system?
7. Will the Task Force commit to making all collected information about testing capacity and volume publicly available with daily updates, and to release relevant information on testing results?
8. Which federal agency is managing the supply chain and distribution of tests and testing supplies to states, territories, and Indian Tribes? Which official is leading the testing supply and distribution effort within that agency?

We urge you to promptly develop a national, real-time, public-facing inventory of COVID-19 diagnostic tests and results. This resource will provide the transparency that our states and Tribal Nations need to anticipate the national testing supply chain and the information that the federal government needs to anticipate and proactively address any testing shortages.

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[12] White House, "Text of a Letter from the Vice President to Hospital Administrators," March 29, 2020, https://www.whitehouse.gov/briefings-statements/text-letter-vice-president-hospital-administrators/

Sincerely,

/s/ Tina Smith
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Tina Smith
United States Senator

/s/ Patty Murray
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Patty Murray
United States Senator

/s/ Chris Van Hollen
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Chris Van Hollen
United States Senator

/s/ Christopher S. Murphy
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Christopher S. Murphy
United States Senator

/s/ Kamala Harris
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Kamala Harris
United States Senator

/s/ Edward J. Markey
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Edward J. Markey
United States Senator

/s/ Michael F. Bennet
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Michael F. Bennet
United States Senator

/s/ Jeanne Shaheen
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United States Senator

/s/ Elizabeth Warren
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Elizabeth Warren
United States Senator

/s/ Tom Carper
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/s/ Sherrod Brown
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/s/ Brian Schatz
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Brian Schatz
United States Senator

/s/ Sheldon Whitehouse
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United States Senator

/s/ Doug Jones
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United States Senator

/s/ Catherine Cortez Masto
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United States Senator

/s/ Mazie K. Hirono

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United States Senator

/s/ Kirsten Gillibrand

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United States Senator

/s/ Debbie Stabenow

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Debbie Stabenow
United States Senator

/s/ Richard Blumenthal

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Richard Blumenthal
United States Senator

/s/ Robert P. Casey, Jr.

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Robert P. Casey, Jr.
United States Senator

/s/ Amy Klobuchar

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Amy Klobuchar
United States Senator

/s/ Jacky Rosen

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Jacky Rosen
United States Senator

/s/ Gary C. Peters

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Gary C. Peters
United States Senator

/s/ Angus S. King, Jr.

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Angus S. King, Jr.
United States Senator

/s/ Maria Cantwell

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Maria Cantwell
United States Senator

/s/ Martin Heinrich

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Martin Heinrich
United States Senator

/s/ Ron Wyden

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Ron Wyden
United States Senator

/s/ Joe Manchin III

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Joe Manchin III
United States Senator

/s/ Tom Udall

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Tom Udall
United States Senator

/s/ Mark R. Warner

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Mark R. Warner
United States Senator

/s/ Jeffrey A. Merkley

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Jeffrey A. Merkley
United States Senator

/s/ Margaret Wood Hassan

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Margaret Wood Hassan
United States Senator

/s/ Corey A. Booker

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Corey A. Booker
United States Senator

/s/ Tim Kaine

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Tim Kaine
United States Senator

/s/ Robert Menendez

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Robert Menendez
United States Senator

/s/ Benjamin L. Cardin

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Benjamin L. Cardin
United States Senator

/s/ Richard J. Durbin

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Richard J. Durbin
United States Senator

/s/ Charles E. Schumer

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Charles E. Schumer
United States Senator

/s/ Patrick Leahy

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Patrick Leahy
United States Senator

/s/ Jack Reed

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Jack Reed
United States Senator

/s/ Christopher A. Coons

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Christopher A. Coons
United States Senator

/s/ Bernard Sanders

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Bernard Sanders
United States Senator

/s/ Dianne Feinstein

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Dianne Feinstein
United States Senator

/s/ Jon Tester

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Jon Tester
United States Senator

/s/ Tammy Duckworth

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Tammy Duckworth
United States Senator