

July 9, 2021

Alejandro Mayorkas  
Secretary  
U.S. Department of Homeland Security  
3801 Nebraska Ave. NW  
Washington, D.C. 20016

Tae Johnson  
Acting Director  
U.S. Immigration and Customs Enforcement  
500 12th St. SW  
Washington, D.C. 20536

Dear Secretary Mayorkas and Acting Director Johnson:

We write today to express concern regarding Immigration and Customs Enforcement's continued treatment of detained transgender immigrants and to ask that ICE commit to sharing data and information regarding such detentions with our offices on a monthly basis.

Immigration detention is notoriously dangerous and harmful for transgender immigrants, who are likely to be seeking asylum based on transphobic violence they have already faced, and because of such histories are likely to suffer from depression, post-traumatic stress disorder, and other mental health conditions.<sup>1</sup> Transgender individuals also are more likely to require specialized medical care including hormone replacement therapy and HIV treatment. Furthermore, in 2017, a congressional inquiry revealed that LGBTQ people in ICE custody are 97 times more likely to be sexually victimized than non-LGBTQ people in detention.<sup>2</sup>

The Government Accountability Office has reported that the number of ICE detentions of transgender individuals increased significantly during the Trump Administration, from 237 people in 2016 to 284 in 2018.<sup>3</sup> In February 2019, ICE confirmed that it was jailing more than 100 transgender individuals in 20 different immigration detention centers across the United States.<sup>4</sup> Data newly posted by ICE suggests that 65 transgender individuals have been detained by ICE this fiscal year, as of June 7th.<sup>5</sup>

There are grave concerns regarding ICE safely detaining transgender individuals. Even when ICE has endeavored to set up specific detention units tailored to comply with the requirements of its own 2015 guidance on the detention of transgender individuals, its efforts have failed. The dedicated transgender housing unit set up at the Cibola County Correctional Center in 2017 was

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<sup>1</sup> See, e.g., Human Rights Watch, "'Do You See How Much I'm Suffering Here?' Abuse Against Transgender Women in US Immigration Detention," March 2016, <https://www.hrw.org/report/2016/03/24/do-you-see-how-much-im-suffering-here/abuse-against-transgender-women-us#>.

<sup>2</sup> Sharita Gruberg, Center for American Progress, ICE's Reject of Its Own Rules Is Placing LGBT Immigrants at Severe Risk of Sexual Abuse," May 30, 2018, <https://www.americanprogress.org/issues/lgbtq-rights/news/2018/05/30/451294/ices-rejection-rules-placing-lgbt-immigrants-severe-risk-sexual-abuse/>.

<sup>3</sup> Government Accountability Office, GAO 20-38, Immigration Enforcement: Arrests, Detentions, and Removals, and Issues Related to Selected Populations, Dec. 2019, <https://www.gao.gov/assets/gao-20-36.pdf>, at p. 25.

<sup>4</sup> Daniel Reynolds, The Advocates, "Over 100 Transgender People are in ICE Custody," Feb. 9, 2019, <https://www.advocate.com/transgender/2019/2/09/over-100-transgender-people-are-ice-custody>.

<sup>5</sup> This data is available on ICE's website at <https://www.ice.gov/detain/detention-management>.

plagued by alarming deficiencies in medical care, including “hundreds of unanswered requests for medical attention, poor quarantine procedures, and deficient treatment for mental illnesses and other chronic diseases,” documented in federal inspections eventually obtained by Reuters.<sup>6</sup> These deficiencies – which included failures to complete laboratory orders or ensure that HIV-positive individuals were seen by specialists – were so severe as to result in ICE transferring all transgender individuals and others with chronic illness out of the facility.

Even outside of this particular housing unit, there is a lack of adequate medical care throughout these detention centers for those with chronic health conditions, and evidence has overwhelmingly shown that those with HIV receive woefully insufficient and inconsistent treatment for their condition. HIV requires regular and regimented treatment to be managed, and for those living with HIV, such poor medical care could quickly lead to death or serious health consequences.

In January 2020, more than 40 Members of Congress, wrote to ICE urging the release of all transgender immigrants. At that time, we noted that, “Immigrants who have faced fear and violence in their pursuit of a new life in the United States should not be confronted with more fear and threats of violence when they arrive at our borders.” Unfortunately, ICE’s policy has not changed.

Given ICE’s history on transgender detention, it’s clear that ICE is not fully capable of safely and humanely detaining transgender and HIV+ individuals. As these individuals face civil, and not criminal proceedings, alternatives to detention that protect the health and safety of these individuals is paramount. We therefore write again today to urge ICE to ensure the release of all transgender people and people living with HIV currently in custody either on recognizance or under supervision, and to formally and publicly announce that ICE will no longer detain transgender individuals and people living with HIV, utilizing release into the community or alternative to detention programming instead.

We ask that you share the following information and data on a monthly basis:

- 1) How many individuals who have self-identified as transgender are in ICE custody (please note specifically how many transgender men and how many transgender women). For each transgender person detained, please note: the facility where they are detained; whether they are detained in a transgender pod or with the general cisgender male or female population; whether they are represented by legal counsel; the number of days they have been detained by ICE; whether they are currently in segregation of any kind; and the number of days they have been placed in segregation of any kind during their detention.
- 2) Please provide information and documentation regarding the policies and procedures that are in place to ensure that individuals coming into ICE custody are provided a safe and protected opportunity to reveal their gender identity and/or sexual orientation. What

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<sup>6</sup> Mica Rosenberg and Ted Hesson, Reuters, “Exclusive: Serious Health Care Lapses Found in U.S. Detention Center Housing Transgender Migrants,” Mar. 2, 2020, “<https://www.reuters.com/article/us-usa-immigration-transgender-exclusive/exclusive-serious-health-care-lapses-found-in-u-s-detention-center-housing-transgender-migrants-idUSKBN20P1OT>.”

opportunities are provided for people to do so on an ongoing basis once they are already in custody, and under what safeguards?

- 3) Please provide the training and written materials provided to ICE and contracted personnel regarding discussions of sexual orientation and gender identity with individuals going through intake and processing in ICE custody.
- 4) Please provide information on how many people living with HIV are currently in ICE custody, with a breakdown of how many women and men, and if they identify as transgender.
- 5) Please describe the engagement work ICE is undertaking with legal services and social services NGOs to facilitate the legal representation and safe release of all transgender individuals.

Thank you for your time and consideration of these important matters. We look forward to working with you on how we can best support LGBTQ individuals in ICE detention.

Sincerely,



Mike Quigley  
Member of Congress

Jesús G. “Chuy” García  
Member of Congress

Bonnie Watson Coleman  
Member of Congress

Adriano Espaillat  
Member of Congress

Pramila Jayapal  
Member of Congress

Juan Vargas  
Member of Congress

Marie Newman  
Member of Congress

Jan Schakowsky  
Member of Congress

James P. McGovern  
Member of Congress

Ritchie Torres  
Member of Congress

Ilhan Omar  
Member of Congress

Eleanor Holmes Norton  
Member of Congress

Sara Jacobs  
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Madeleine Dean  
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Raúl M. Grijalva  
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Mark Takano  
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Sylvia R. Garcia  
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Joaquin Castro  
Member of Congress

Mary Gay Scanlon  
Member of Congress

Grace Meng  
Member of Congress