

United States Senate

WASHINGTON, DC 20510

October 18, 2022

Hon. Tae D. Johnson
Acting Director
U.S. Immigration and Customs Enforcement
500 12th Street SW
Washington, DC 20536

Dear Acting Director Johnson:

We write to express our concern regarding the chronically inadequate conditions at the Torrance County Detention Facility (TCDF), a facility managed by the for-profit contractor CoreCivic. On July 6, 2022, you asserted that that U.S. Immigration and Customs Enforcement (ICE) is ensuring compliance with the 2011 Performance Based National Detention Standards (PBNDS). This stands in stark contrast to the September 29, 2022 Department of Homeland Security (DHS) Office of the Inspector General (OIG) report titled “*Violations of ICE Detention Standards at Torrance County Detention Facility*”. The report reiterates OIG’s March 2022 DHS OIG Management Alert to immediately relocate all Torrance detainees until the facility ensures appropriate living conditions.¹

Given ICE’s failure to address the OIG’s recommendations, including unsafe living conditions and staffing levels at TCDF, we urge you to immediately terminate your contract with CoreCivic, appropriately transfer all detainees previously deemed eligible for transfer, release all detainees previously deemed eligible for release, proceed with removal of all detainees previously deemed eligible for removal, immediately re-evaluate all detainees not currently deemed eligible for release or transfer, and ensure robust access to legal rights throughout.²

Attorneys, accredited representatives, and legal assistants advocating on behalf of TCDF detainees confirm that lack of access to legal services at the facility has persisted. These issues are ongoing, despite your July 2022 assurance. Noncitizen TCDF detainees have no access whatsoever to in-person or telephonic legal visits on weekends or holidays. Additionally, the weekly hotline operated by the El Paso Immigration Collaborative (EPIC) is repeatedly

¹ <https://www.oig.dhs.gov/sites/default/files/assets/2022-09/OIG-22-75-Sep22.pdf>

² This access is provides critical orientation and information to detained migrants and asylum seekers about their rights in detention and how to navigate the immigration system.

inaccessible to noncitizen detainees without explanation, at times for multiple consecutive weeks. Finally, the scheduling of telephonic legal visits during regular business is routinely restricted due to apparent CoreCivic staffing issues.

We appreciate ICE's efforts to ensure that CoreCivic translates the TCDF detention handbook into languages that are prevalent among the facility's non-English speaking population. Given that these translations were to be completed by June 2022, we request that copies of all languages currently available be promptly provided to our offices. Despite these efforts, the general lack of detainee access to language interpretation services in TCDF remains a concern. Non-English speakers routinely report that CoreCivic personnel at TCDF fail to utilize professional language services to communicate with non-English speakers. Moreover, in May 2022, the DHS Office of Civil Rights and Civil Liberties (CRCL) found that despite the facility's sizable Turkish population and the number of detainees whose preferred language is Portuguese and Arabic, no materials were provided in a language or manner that they could understand.³ This undermines detainee access to facility services at all levels and prevents the informed consideration of choices before them.

We note that mere weeks after our office received your assurances that ICE "remains firmly committed to continually enhancing civil detention operations to promote a safe and secure environment for detained noncitizens,"⁴ 10 of the 14 recommendations from the OIG report remain open and unresolved. These recommendations include serious violations such as subpar living conditions, critical staffing shortages, and a lack of access to medical personnel and services. The OIG noted in the September 2022 report, that "our medical contractors concluded that these medical unit vacancies impacted the level of care detainees received for suicide watch," a stark statement given the recent death by suicide of 23 year-old Brazilian, Kelsey Vial, while detained at TCDF. We understand from the information that ICE has released publicly that Mr. Vial was transferred into TCDF after the DHS OIG issued its calling for the immediate depopulation of the facility due to dangerous conditions – and after ICE rejected those recommendations and continued to detain people in TCDF despite ongoing serious health and safety issues as well as acute understaffing. We understand from complaints submitted recently by individuals detained in TCDF that issues raised in the OIG alert remained unresolved, including chronic understaffing, filthy living conditions, inadequate medical care, and other serious health and safety issues. We also understand that Mr. Vial was awaiting removal at the time of his death by suicide and was reportedly unable to obtain clear or consistent information from ICE on when he could expect to leave TCDF. We are gravely concerned regarding the circumstances of this tragic death and the timeline released by ICE on October 14, 2022 further calls into question the CoreCivic management at TCDF.

On Sep. 9, 2022, personnel from the New Mexico congressional delegation conducted a facility visit at TCDF. The offices became aware that, following this visit, ICE and CoreCivic attempted to restrict legal visits and legal rights presentations in TCDF by the New Mexico

³ https://www.dhs.gov/sites/default/files/2022-09/05.19.2022%20CRCL%20Spot%20Check%20Memo%20to%20ICE%20-%20Torrance%20NM_Redacted_508.pdf

⁴ Johnson, Tae D. Letter to the New Mexico Congressional Delegation. 6 July 2022. TS.

Immigrant Law Center (NMILC). This appears to be a clear violation of the PBNDS and detained noncitizens' right to counsel. Moreover, these recent developments call into question your office's assurances that ICE "considers access to legal counsel to be of paramount importance to detained noncitizens." We strongly urge your agency to immediately cease all interference with legal visits and to ensure that your contractor does the same.

Grievous living conditions, critical staffing shortages, and lack of access to detainee services at TCDF have been consistently documented and shown to be widespread, despite your agency's assurances to the contrary. This neglect puts those individuals who remain in the facility in unconscionable circumstances. Therefore, we write to urge the transfer or release of eligible detainees, re-evaluation of detainees previously deemed ineligible for transfer or release, proceeding with removal of all detainees previously deemed eligible for removal, robust access to legal services, and immediate termination of ICE's Torrance County Detention Facility contract with CoreCivic.

We look forward to your prompt response to the concerns raised herein.

Sincerely,



Martin Heinrich
United States Senator



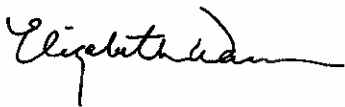
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