

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
MINORITY (202) 225-5074
<http://oversight.house.gov>

December 23, 2019

Mr. Matthew T. Albence
Acting Director
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
500 12th Street, S.W.
Washington, D.C. 20536

Dear Acting Director Albence:

The Subcommittee on Civil Rights and Civil Liberties is writing to request documents and information relating to reports of gross negligence by medical staff treating detainees in the custody of Immigration and Customs Enforcement (ICE).

In March, the Department of Homeland Security Office of Civil Rights and Civil Liberties (CRCL) reportedly issued a memorandum recounting allegations that the ICE Health Service Corps “has systematically provided inadequate medical and mental health care and oversight to immigration detainees in facilities throughout the U.S.”¹

According to a recent news report, there have been at least 17 complaints of inadequate medical treatment or oversight at nine different facilities, resulting in two preventable surgeries and contributing to four deaths. These complaints include immigrants receiving incorrect medications, immigrants dealing with severe withdrawal symptoms, and the ICE Health Service Corps leadership being “unresponsive or even dishonest when confronted.”²

Specific examples of inadequate care include:

- An eight-year-old boy who had part of his forehead removed due to a delayed diagnosis;
- A man who was improperly prescribed aspirin—which is a blood thinner, even though he was already bleeding through his skin—for six days, resulting in the detainee coughing up blood and being hospitalized;

¹ Memorandum from Cameron P. Quinn and March Pachon to Ronald Vitiello and Michael P. Davis, U.S. Department of Homeland Security (Mar. 20, 2019) (online at <https://assets.documentcloud.org/documents/6575024/ICE-Whistleblower-Report.pdf>).

² *Id.*

- A man suffering from psychotic-like symptoms who was improperly prescribed an anti-depressant, rather than an anti-psychotic, likely worsening his symptoms;
- Multiple reports of failures to follow medical procedures to treat drug and alcohol withdrawal, resulting in hospitalizations;
- A man suffering from psychosis-related symptoms who was not treated by the facility psychiatrist and “became so unstable that he lacerated his penis, requiring hospitalization and surgery”; and
- A man who committed suicide despite apparently being on suicide watch.³

According to the report, most, if not all, of these incidents were the result of gross negligence on behalf the ICE personnel and medical professionals tasked with caring for detainees. Reportedly, no action was taken by ICE or the Department of Homeland Security (DHS) to remedy the inadequacies that led to these horrific incidents. The DHS Office of Inspector General received these complaints beginning in April 2018, and CRCL received the complaints in July 2018. CRCL did not inform ICE of these issues for another eight months, and in the nine months since then, the medical treatment of ICE detainees seemingly has not improved.⁴

Furthermore, the CRCL memorandum details that, rather than addressing this medical neglect, the ICE Health Service Corps reportedly retaliated against the employee who reported it.⁵

For these reasons, the Subcommittee requests that CRCL produce the following documents, by January 10, 2020, for the time period of January 2017 to present:

1. All documents referring or relating to the complaints listed in the CRCL memorandum
2. Documents sufficient to show all complaints received related to treatment of detainees, the conduct complained of, and any action taken as a result of the complaint;
3. All incident reports from the ICE Health Services Corps Risk Management Division;
4. All ICE Health Services Corps Risk Management quarterly and annual reports;
5. All mortality/death reports from or reviewed by the ICE Health Services Corps and all documents related to those deaths;
6. All documents referring or relating to any detainee incidents that include any allegation of improper, inadequate, or delayed treatment, medical error, and/or death;
7. All documents explaining ICE Health Services Corps’ policies and procedures for the handling of incident reports, including remedial action;

³ *Id.*

⁴ Memorandum from Cameron P. Quinn and March Pachon to Ronald Vitiello and Michael P. Davis, U.S. Department of Homeland Security (Mar. 20, 2019) (online at <https://assets.documentcloud.org/documents/6575024/ICE-Whistleblower-Report.pdf>).

⁵ *Id.*

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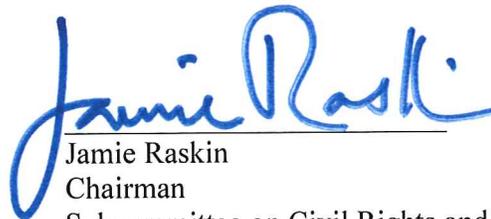
8. All communications with CRCL referring or relating to the medical treatment of detainees;
9. All documents reflecting, describing, discussing, or justifying personnel actions taken affecting anyone working on behalf of the ICE Health Services Corps who filed an incident report regarding treatment of detainees;
10. All communications referring or relating to anyone working on behalf of ICE Health Services Corps who filed an incident report regarding treatment of detainees; and
11. All documents referring or relating to any allegations of retaliation against anyone working on behalf of ICE Health Services Corps.

If any of these documents have been previously produced to the Committee in response to any other request, please identify those documents.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X.

An attachment to this letter provides additional instructions for responding to the Committee’s request. If you have any questions regarding this request, please contact Committee staff at (202) 225-5051.

Sincerely,



Jamie Raskin
Chairman
Subcommittee on Civil Rights and Civil Liberties

Enclosure

cc: The Honorable Chip Roy, Ranking Member
Subcommittee on Civil Rights and Civil Liberties

Responding to Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee on Oversight and Reform, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building. When documents are produced to the Committee on Financial Services, production sets shall be delivered to the Majority Staff in Room 2129 of the Rayburn House Office Building and the Minority Staff in Room 4340 of the O'Neill House Office Building. When documents are produced to the Permanent Select Committee on Intelligence, production sets shall be delivered to Majority and Minority Staff in Room HVC-304 of the Capital Visitor Center.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a

part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.