United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510–6275

July 16, 2024

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
301 7th St., SW
Washington, DC 20528

Patrick J. Lechleitner
Deputy Director and Senior Official
Performing the Duties of the Director
U.S. Immigration and Customs Enforcement
500 12th St., SW
Washington, DC 20536

Dear Secretary Mayorkas and Acting Director Lechleitner:

I write to express my deep concern with recent findings regarding systemic failures in medical and mental health care that have caused preventable deaths in Immigration and Customs Enforcement (ICE) detention facilities nationwide, underscoring an urgent need for comprehensive reforms.[1] Since January 1, 2017, a reported 68 people have died in ICE custody.[2] ICE is constitutionally obligated to provide adequate medical and mental health services to people it detains and must ensure the safety and well-being of people in its custody.[3]

In a recent study by the American Civil Liberties Union (ACLU), American Oversight, and Physicians for Human Rights, medical experts concluded that 95 percent of deaths in ICE custody between 2017 to 2021 were likely preventable if appropriate medical care had been provided by ICE.[4] In 88 percent of these deaths, ICE detention medical staff made incorrect or incomplete diagnoses; in 79 percent of these deaths, ICE detention medical staff provided incomplete, inappropriate, or delayed treatment and medication.[5] For example:

- Abel Reyes Clemente reportedly died of undiagnosed and untreated bacterial pneumonia after detention medical staff at ICE's Florence Processing Center in Arizona assumed that he had influenza, without any testing, and prescribed Tamiflu, an antiviral drug ineffective against bacterial pneumonia. Two days later, he died alone in a medical solitary confinement cell.[6]
- Jesse Jerome Dean, Jr., allegedly died in ICE custody from an undiagnosed gastrointestinal hemorrhage after his detention at the Calhoun County Jail in Michigan. Although Dean was unable to eat, had lost almost 20 pounds in three weeks, and suffered

[1] ACLU, American Oversight, Physicians for Human Rights, *Deadly Failures: Preventable Deaths in U.S. Immigration Detention* (2024).
[2] This number does not include detained people whom ICE released immediately prior to their deaths.
[3] *Bell v. Wolfish*, 441 U.S. 520, 534–35 (1979); *Farmer v. Brennan*, 511 U.S. 825, 832 (1994).
[4] ACLU, American Oversight, Physicians for Human Rights, *Deadly Failures: Preventable Deaths in U.S. Immigration Detention* (2024).
[5] *Id.*
[6] *Id.*

from severe nausea, detention staff never referred him to a physician. Instead, nurses accused him of fabricating his symptoms.[7]

- The study concluded that Wilfredo Padron died of a heart attack at the Monroe County Detention Center in Florida after detention facility medical staff failed on multiple occasions to conduct an electrocardiogram (EKG) test or refer him to a doctor when he complained of radiating chest pain and elevated blood pressure.[8]

The study also showed that ICE failed to ensure adequate oversight and accountability where dangerous conditions led to deaths of detained people.[9] ICE's post-death investigations reportedly allowed the destruction of evidence, including deletion or overwriting of critical video evidence. ICE allegedly released key detained eyewitnesses from custody hours before—or even during—investigator facility visits. Most importantly, the study found that ICE's oversight process failed to result in meaningful consequences for detention facilities. Detention facilities were not required to take immediate corrective actions to keep their contracts, and did not lose detention contracts or fail ICE inspections, even where ICE's own death investigations found multiple violations of detention standards.[10]

I urge ICE to take immediate steps toward addressing systemic medical and mental health care deficiencies. The agency should issue a directive focused on vulnerable populations that ensures the release from detention of people with certain medical and mental health vulnerabilities. Such a directive should ensure rapid medical screening of detained immigrants to identify those who would face increased medical and/or mental health risk in detention and outline procedures to enable their prompt release from custody. ICE's release of medically vulnerable individuals during the COVID-19 pandemic illustrates the feasibility and appropriateness of releasing such individuals on their own recognizance. ICE has tools to address individual circumstances, such as case management and other alternatives to detention, where necessary.

ICE also must also ensure meaningful consequences for detention facilities where the failure to provide adequate medical and mental health care have caused the deaths of detained people, and must ensure full, comprehensive, and unbiased investigation of deaths in detention. These consequences include halting new intakes at any facility following a death until a thorough investigation into the factors that led to the death is completed; and examining methods for ending ICE detention contracts where the death resulted from substandard medical and mental health care. ICE also must ensure complete preservation of all relevant evidence, conduct interviews of detained eyewitnesses with protection from retaliation and deportation, and provide unimpeded access to staff and contractors.

---

[7] *Id.* at 8.
[8] *Id*.
[9] *Id.* at 26-34.
[10] *Id.* at 4.

To help the Senate Judiciary Committee and the public better understand ICE's provision of medical and mental health in detention, as well as oversight and investigation of deaths in detention, I ask that you provide written responses to the following questions by August 6, 2024:

1. For each ICE detention facility, how many medical and mental health staff vacancies are unfilled as of the date of your reply? Please provide the name of the facility and position/licensing level for each.
2. Since 2017, what steps has ICE taken to prevent the deaths of detained people in its custody?
3. What corrective actions has ICE taken to enforce contract terms for the provision of medical or mental health care in ICE detention facilities after the death of detained individuals in custody? Please provide a list of facilities, dates, financial penalties, and corrective actions.
4. How many waivers of contract requirements related to the provision of medical or mental health have facilities requested from ICE and how many have been granted? What standards have been waived? Please provide a list of facilities, waiver requests by date, and the status of those waivers.
5. How many people included on ICE's Significant Detainee Illness (SDI)[11] List were released from custody while hospitalized since February 1, 2020? To ICE's knowledge, how many of these individuals died within 30 days of release from custody?
6. What policies and procedures govern detained individuals' access to their own medical records?

Thank you for your attention to this important matter.

Sincerely,

Richard J. Durbin
Chair

cc: The Honorable Lindsey O. Graham
Ranking Member, Senate Committee on the Judiciary

[11] U.S. ICE, *Significant Detainee Illness*, IHSC Directive 03-32, ERO Directive Number: 11853.3, Dec. 1, 2015 (describing criteria for placement on the SDI list to include "critical illness due to a life-threatening condition," "anyone who is in intensive care for 24 hours or more," "potentially life-threatening medical condition requiring urgent action to prevent deterioration," and "significant coordination required to repatriate or to release a detainee/resident in the United States due to their medical condition.").