

United States Senate

May 6, 2022

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Garland:

We write to follow up on a recent briefing that the United States Marshals Service (USMS) provided to our offices on its October 2021 inspection of the District of Columbia Central Detention Facility (CDF). No person should be held under the unconscionable conditions that USMS found at CDF, less than two miles from the United States Capitol.

From October 18 through October 22, USMS conducted an unannounced inspection of CDF and the District of Columbia Correctional Treatment Facility (CTF). Though USMS found conditions in CTF to be “largely appropriate and consistent with federal prisoner detention standards,” the agency identified a litany of egregious conditions at CDF, including cells with standing human sewage; detainees deprived of water and food as punishment; water shut off in cells for days at a time; hot meals served cold and congealed; detainees with observable injuries with no corresponding medical or incident reports; and a failure to follow COVID-19 mitigation protocols.¹ One detainee reportedly was suffering from chemical burns after guards pepper sprayed him and then denied him access to a shower for days.² USMS also encountered unacceptable conduct by D.C. Department of Corrections (DOC) staff, who antagonized and told detainees not to cooperate with the inspection; obstructed USMS access to the facility; and appeared unfamiliar and unconcerned with applicable policies and standards.³

In response, USMS removed the majority of detainees in federal custody from CDF. Since then, USMS has also entered into a Memorandum of Understanding (MOU) with DOC to remedy DOC’s failures with respect to the management of CDF. While we appreciate the steps USMS has taken to address the unsafe and inhumane conditions at the facility, we are concerned by its failure to uncover these deplorable conditions sooner—and that it took recent complaints by January 6 pretrial detainees to address conditions that have long been a matter of public record.

¹ Spencer S. Hsu, Emily Davies, & Paul Duggan, *D.C. jail ordered U.S. marshals to leave after surprise inspections, judge says*, November 3, 2021, https://www.washingtonpost.com/local/legal-issues/dc-jail-conditions-inspection/2021/11/03/c75d08ea-3c27-11ec-bfad-8283439871ec_story.html

² *Id.*

³ *Id.*

For example, in 2015, the Washington Lawyers' Committee for Civil Rights and Urban Affairs conducted a study and issued a report on the "appalling conditions" at CDF,⁴ including vermin and pest infestation, growing mold, and decaying plumbing contributing to sub-standard and unhealthy conditions. The failure to address these conditions at the time raises significant concerns. To date, USMS has not addressed how long the conditions at CDF existed before the unannounced inspection last October and whether previous complaints were adequately investigated. Nor has USMS indicated what, if any, policy or procedural changes it has adopted to ensure that complaints regarding subpar detention facilities will be timely addressed going forward.

We understand that USMS forwarded its October findings to the Civil Rights Division for review of potential violations of the Civil Rights of Institutionalized Persons Act (CRIPA), which authorizes DOJ to investigate and seek equitable relief to remedy prison conditions that deprive detainees of their constitutional rights. The Department's investigative authority is not limited to civil remedies, however. A particularly disturbing aspect of USMS's findings was that DOC staff appeared to chill, silence, and ignore complaints of detainees during the inspection. Those who deprive detained persons of their civil rights may be subject to criminal charges under 18 U.S.C. § 242.

We urge DOJ to immediately investigate potential civil and criminal violations of federal law at CDF and make the results of those investigations public. In addition, please respond to the following requests as soon as possible, but no later than May 27, 2022:

1. Please describe in detail which problems identified by the October inspection have been fully rectified by DOC and which remain outstanding.
2. Please describe in detail what steps, if any, USMS has taken to ensure that DOC personnel understand applicable standards of detention, their obligation to cooperate with USMS inspections, and their obligation to address complaints by detainees about conditions of detention.
3. Please describe in detail what steps, if any, USMS has taken to ensure that complaints about conditions at DOC and other facilities where federal pretrial detainees are housed are addressed in a timely manner going forward.
4. Please provide an update on the status of the CRIPA referral.

We appreciate your consideration and look forward to your prompt reply.

⁴ Washington Lawyers' Committee For Civil Rights and Urban Affairs, *D.C. Prisoners: Conditions of Confinement in the District of Columbia*, June 11, 2015, https://www.washlaw.org/pdf/conditions_of_confinement_report.PDF

Sincerely,



RICHARD J. DURBIN
Chair
Committee on the Judiciary



CHARLES E. GRASSLEY
Ranking Member
Committee on the Judiciary



BENJAMIN L. CARDIN
United States Senator