

Congress of the United States
Washington, DC 20515

November 12, 2020

Mr. Tony H. Pham
Senior Official Performing the Duties of the Director
U.S. Immigration and Customs Enforcement
500 12th Street S.W.
Washington, D.C. 20536-5003

Dear Mr. Pham:

We are writing to demand that Immigration and Customs Enforcement (ICE) abide by its own policy and refrain from deporting witnesses and victims in ongoing investigations into allegations of medical mistreatment at Irwin County Detention Center (ICDC).¹

A complaint filed on September 14, 2020, sets forth detailed allegations of intolerable, inhumane, and illegal mistreatment of detainees at ICDC, including hysterectomies performed without “proper informed consent.”² The Committees are aware of a number of investigations of ICE and its contractors being conducted by the Department of Justice Civil Rights Division, the Department of Homeland Security (DHS) Office of the Inspector General, and several congressional Committees, including our own.³ Deporting women who may be key witnesses in these proceedings would be an obstruction of justice and an abuse of authority.

Our Committees previously asked ICE, LaSalle Corrections, and ICDC to produce documents relating to the whistleblower allegations.⁴ That request followed an earlier request to the DHS Inspector General to investigate these reports of “medical atrocities.”⁵ Not only has

¹ See Immigration and Customs Enforcement, *Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs* (Jun. 17, 2011) (online at www.ice.gov/doclib/foia/prosecutorial-discretion/certain-victims-witnesses-plaintiffs.pdf).

² Letter from Project South, Georgia Detention Watch, Georgia Latino Alliance for Human Rights, and South Georgia Immigrant Support Network, to Inspector General Joseph V. Cuffari, Department of Homeland Security, Cameron Quinn, Officer for Civil Rights and Civil Liberties, Department of Homeland Security, Acting Director Thomas P. Giles, Atlanta Field Office, Immigration and Customs Enforcement, and Warden David Paulk, Irwin County Detention Center (Sept. 14, 2020) (online at <https://projectsouth.org/wp-content/uploads/2020/09/OIG-ICDC-Complaint-1.pdf>).

³ *ICE Tried to Deport Yet Another Potential Witness in the Gynecology Scandal*, Vice (Nov. 10, 2020) (online at www.vice.com/en/article/wx85k5/ice-tried-to-deport-yet-another-potential-witness-in-the-gynecology-scandal).

⁴ Letter from Chairman Bennie G. Thompson, Committee on Homeland Security, Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, et al., to Senior Official Performing the Duties of Director Tony H. Pham, Immigration and Customs Enforcement, Rodney Cooper, Executive Director, LaSalle Corrections, and Warden Phil Bickham, Irwin County Detention Center (Sept. 21, 2020) (online at <https://homeland.house.gov/imo/media/doc/ICDC%20investigation%20letter.pdf>).

⁵ Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, and Chairman Jamie Raskin, Subcommittee on Civil Rights and Civil Liberties, to Inspector General Joseph V. Cuffari, Department of Homeland Security (Sept. 15, 2020) (online at

ICE refused to comply with these requests or provide a briefing to our Committees, it has reportedly pressed LaSalle Corrections and ICDC to ignore the request in an extraordinary attempt to stonewall Congress.⁶

At the same time, ICE reportedly has taken steps to deport individuals relevant to these investigations—including victims of these alleged abuses—thereby preventing them from giving testimony. Shortly after the publication of the whistleblower report, ICE moved to deport Pauline Binam, a former ICDC detainee and witness. Ms. Binam avoided deportation only because of direct intervention by Reps. Pramila Jayapal and Sheila Jackson Lee.⁷

Earlier this month, Ana Cajigal Adan, a detainee at ICDC who described “overly aggressive” behavior by the gynecologist at the center of the whistleblower’s allegations, was notified that she too would be deported to Mexico, a country she left when she was just six months old. At least four other women also were subject to deportation orders in an apparent attempt to obstruct these ongoing investigations.⁸

On November 2, 2020, ICE denied a deportation stay for another key witness, 54-year-old Alma Bowman, who was a community leader among detainees at ICDC and was “well-informed of the procedures and alleged abuses taking place.”⁹ Just this week, public reports revealed that ICE is attempting to deport yet another witness, 36-year-old “Yanira.”¹⁰

These actions fit a pattern of obstruction by ICE. In September, ICE deported a witness in an investigation into allegations of sexual assault and harassment at an El Paso immigrant detention center. The woman previously filed a complaint with law enforcement agencies.¹¹

These actions appear to contradict ICE’s own policy prohibiting deportations of certain victims or witnesses:

<https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2020-09-15.CBM%20Raskin%20to%20Cuffari-ICE%20re%20Irwin%20County%20Medical%20Reports.pdf>.

⁶ Letter from Chairman Bennie G. Thompson, Committee on Homeland Security, Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, et al., to Senior Official Performing the Duties of Director Tony H. Pham, Immigration and Customs Enforcement (Oct. 9, 2020) (online at <https://homeland.house.gov/imo/media/doc/ICDC%20ICE%20Letter.pdf>).

⁷ *A Woman in ICE Detention Says Her Fallopian Tube Was Removed Without Her Consent*, Vox (Sept. 17, 2020) (online at www.vox.com/2020/9/17/21440001/ice-hysterectomies-whistleblower-irwin-fallopian).

⁸ *ICE Attempts to Deport Multiple Witnesses in Gynecologic Surgery Scandal*, Vice (Nov. 5, 2020) (online at www.vice.com/en/article/jgqq7p/ice-attempts-to-deport-multiple-witnesses-in-gynecologic-surgery-scandal).

⁹ *ICE Medical Misconduct Witness Slated for Deportation is U.S. Citizen, Says Lawyer*, The Intercept (Nov. 2, 2020) (online at <https://theintercept.com/2020/11/02/ice-medical-misconduct-us-citizen-deportation/>).

¹⁰ *ICE Tried to Deport Yet Another Potential Witness in the Gynecology Scandal*, Vice (Nov. 10, 2020) (online at www.vice.com/en/article/wx85k5/ice-tried-to-deport-yet-another-potential-witness-in-the-gynecology-scandal).

¹¹ *ICE Deported a Key Witness in Investigation of Sexual Assault and Harassment at El Paso Detention Center*, The Texas Tribune (Sept. 15, 2020) (online at www.texastribune.org/2020/09/15/ice-deport-witness-sexual-assault/).

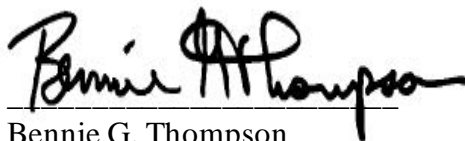
- “Absent special circumstances or aggravating factors, it is against ICE policy to initiate removal proceedings against an individual known to be the immediate victim or witness to a crime.”¹²
- “Absent special circumstances, it is similarly against ICE policy to remove individuals in the midst of a legitimate effort to protect their civil rights or civil liberties.”¹³
- “To avoid deterring individuals from reporting crimes and from pursuing actions to protect their civil rights, ICE officers, special agents, and attorneys are reminded to exercise all appropriate discretion on a case-by-case basis when making detention and enforcement decisions in the cases of victims of crime, witnesses to crime, and individuals pursuing legitimate civil rights complaints.”¹⁴

We call on ICE to immediately cease efforts to deport any individuals who may be witnesses to or victims of the medical malpractice alleged at ICDC. Instead, ICE should work in direct consultation with DOJ, the DHS Inspector General, and our Committees to identify witnesses who must not be deported. The Committees request written confirmation no later than November 13, 2020, that ICE will immediately halt these deportations. By November 16, 2020, we also request that you describe all steps ICE is taking to ensure that more witnesses and victims are not deported.

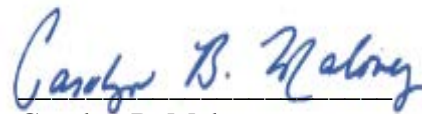
The Committee on Homeland Security has jurisdiction under House Rule X over homeland security policy and the organization, administration, and general management of the Department of Homeland Security. The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X.

Thank you for your attention to this matter.

Sincerely,



Bennie G. Thompson
Chairman
Committee on Homeland Security



Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform

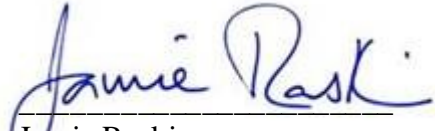
¹² Immigration and Customs Enforcement, *Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs* (June 17, 2011) (online at www.ice.gov/doclib/foia/prosecutorial-discretion/certain-victims-witnesses-plaintiffs.pdf).

¹³ *Id.*

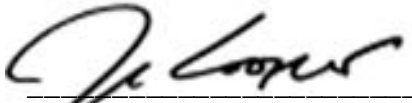
¹⁴ *Id.*



Kathleen Rice
Chairwoman
Subcommittee on Border Security,
Civil Facilitation and Operations



Jamie Raskin
Chairman
Subcommittee on Civil Rights and
Civil Liberties



Jim Cooper
Member
Committee on Oversight and Reform

cc: The Honorable Mike Rogers, Ranking Member
Committee on Homeland Security

The Honorable James R. Comer, Ranking Member
Committee on Oversight and Reform

The Honorable Clay Higgins, Ranking Member
Subcommittee on Border Security, Facilitation, and Operations
Committee on Homeland Security

The Honorable Chip Roy, Ranking Member
Subcommittee on Civil Rights and Civil Liberties
Committee on Homeland Security

The Honorable William P. Barr, Attorney General
Department of Justice

The Honorable Michael E. Horowitz, Inspector General
Department of Justice

The Honorable Chad F. Wolf, Acting Secretary
Department of Homeland Security

The Honorable Joseph V. Cuffari, Inspector General
Department of Homeland Security