

United States Senate
WASHINGTON, DC 20510

February 25, 2021

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
2801 Nebraska Avenue, NW
Washington, DC 20528

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

Dear Secretary Mayorkas and Acting Director Johnson:

We are writing regarding a concerning report that staff at two separate Immigration and Customs Enforcement (ICE) facilities threatened to expose asylum-seekers to COVID-19 if they did not surrender their rights and submit to deportation.¹ These alleged actions follow other disturbing accounts from asylum-seekers in ICE custody of mistreatment and abuse by personnel who apparently beat them into submitting to their own expulsion.² The allegations of violence and brutality against vulnerable refugees seeking safety here in the United States are unlawful and disturbing. We write to ask what actions ICE and the Department of Homeland Security (DHS) are taking to investigate these allegations, and what actions it will take to ensure that incidents like those alleged do not occur in the future.

On January 20, 2021, Acting Secretary of Homeland Security David Pekoske issued a memo to senior officials at Customs and Border Protection, U.S. Citizenship and Immigration Services, and ICE, directing them “to conduct a review of policies and practices concerning immigration enforcement” and begin an immediate 100-day moratorium on the deportation of noncitizens during the review period.³ The memo, however, noted that this policy exempts noncitizens who “ha[ve] voluntarily agreed to waive any rights to remain in the United States, provided that he or she has been made fully aware of the consequences of waiver and has been given a meaningful opportunity to access counsel prior to signing the waiver.”⁴

¹ The Intercept, “ICE Threatened to Expose Asylum-Seekers to COVID-19 If They Did Not Accept Deportation,” John Washington, February 6, 2021, <https://theintercept.com/2021/02/06/ice-covid-threat-asylum-deportation/>.

² Civil rights complaint filed by Freedom for Immigrants, Al Otro Lado, and Advocates for Immigrants Rights, February 1, 2021, https://www.freedomforimmigrants.org/s/Redacted_CRCL_Complaint_Winn.pdf.

³ Memorandum from Acting Homeland Security Secretary David Pekoske to U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and U.S. Citizenship and Immigration Services, January 20, 2021, https://www.dhs.gov/sites/default/files/publications/21_0120_enforcement-memo_signed.pdf.

⁴ *Id.*

Less than two weeks after this memo was issued, several immigrant advocacy groups filed a civil rights complaint with the DHS Office for Civil Rights and Civil Liberties (CRCL) and DHS Office of Inspector General (OIG) based on published testimonies from asylum-seekers in ICE custody claiming they had been tortured and coerced into signing documents to approve their own deportation.⁵ Their affidavits describe horrific experiences involving physical abuse by personnel at the Winn Correctional Center in Winnfield, Louisiana that “may be tantamount to torture,” including “being physically assaulted, choked, and beaten in attempts to force their signature” to authorize their own deportation against their will⁶ and waive their rights “to further legal process before deportation.”⁷

These allegations of unlawful human rights abuses by personnel at an ICE facility are not isolated incidents. According to the civil rights complaint filed on February 1, 2021 by the coalition of immigrant advocacy organizations, “The use of violence to force individuals in ICE custody to involuntarily sign documents relating to their deportation is a continued pattern and practice that ICE’s leadership has ignored.”⁸ Similar complaints have been received over the last six months at several other facilities overseen by the New Orleans ICE Field Office, including the Adams County Correctional Facility in Mississippi, and Jackson Parish Correctional Facility and Pine Prairie Detention Center in Louisiana.⁹ In October 2020, another coalition of immigrant rights groups filed a multi-individual complaint with DHS, CRCL, and OIG “condemning the agency for deploying excessive force to coerce Cameroonian asylum-seekers into signing their own deportation papers,” which also outlines coercive tactics, including the “forced taking of fingerprints while individuals are in restraint, and the use of pepper spray against those who decline to sign their deportation papers” in addition to being threatened with torture.¹⁰

According to a recent report by *The Intercept*, asylum-seekers in custody at the Pine Prairie ICE Processing Center in Louisiana and the Etowah County Detention Center in Alabama allege that they too were forced to submit to their own deportations. They were allegedly told that if they didn’t, they would be transferred to the detention unit within the facility where coronavirus-positive individuals are held in quarantine.¹¹ Immigrants detained at Pine Prairie eventually relented and were transported to a staging center for deportation under conditions that

⁵ Freedom for Immigrants, “ICE Use of Torture in Signing of Deportation Documents for Cameroonian Migrants at Winn Correctional Center, Louisiana,” February 2, 2021,

<https://www.freedomforimmigrants.org/crcl/2021/2/2/winn-correctional-center-louisiana>.

⁶ Civil rights complaint filed by Freedom for Immigrants, Al Otro Lado, and Advocates for Immigrants Rights, February 1, 2021, https://www.freedomforimmigrants.org/s/Redacted_CRCL_Complaint_Winn.pdf.

⁷ The Guardian, “Exclusive: Ice cancels deportation flight to Africa after claims of brutality,” Julian Borger, February 4, 2021, <https://www.theguardian.com/us-news/2021/feb/04/ice-cancels-deportation-flight-african-asylum-seekers-brutality>.

⁸ Civil rights complaint filed by Freedom for Immigrants, Al Otro Lado, and Advocates for Immigrants Rights, February 1, 2021, https://www.freedomforimmigrants.org/s/Redacted_CRCL_Complaint_Winn.pdf.

⁹ *Id.*

¹⁰ Southern Poverty Law Center, “ICE is using torture against Cameroonian immigrants to coerce deportation, according to new complaint filed by immigrant rights groups,” October 8, 2020, <https://www.splcenter.org/presscenter/ice-using-torture-against-cameroonian-immigrants-coerce-deportation-according-new>.

¹¹ The Intercept, “ICE Threatened to Expose Asylum-Seekers to COVID-19 If They Did Not Accept Deportation,” John Washington, February 6, 2021, <https://theintercept.com/2021/02/06/ice-covid-threat-asylum-deportation/>.

nevertheless risked exposing them to COVID-19 because ICE personnel blatantly ignored CDC recommendations for mitigating its spread by reportedly cramming 100 people in a single room.¹² Their deportation flight to West Africa ultimately was cancelled due to their allegations of brutality by ICE personnel.¹³ However, ICE has continued deporting asylum-seekers.¹⁴

Concerns about the abusive culture within the New Orleans ICE Field Office and all the detention centers it oversees are not new. Last summer, for example, there was a COVID-19 outbreak at Pine Prairie due to officials' failure "to enforce even the most basic safety precautions."¹⁵ The center in Etowah County also appears to be disregarding CDC guidelines for COVID-19: one asylum-seeker who was denied a new mask after losing his "described the medical conditions and the facility's response to the pandemic as abysmal."¹⁶ In December 2020, reports revealed that immigrants who requested COVID-19 tests at Etowah County – which had a massive COVID-19 outbreak – were put in solitary confinement under squalid conditions for weeks to months, presumably as a form of retaliation and punishment to discourage further self-advocacy and requests for testing.¹⁷ Solitary confinement was also used at this facility to quarantine positive persons, despite ICE's published guidelines that "[a] cohort, quarantine, and medical isolation must be operationally distinct from administrative or disciplinary segregation, or any punitive form of housing."¹⁸ These violations were not unique to Pine Prairie and Etowah.¹⁹ Over the past two years, similarly horrific abuses and conditions were reported out of

¹² Centers for Disease Control and Prevention, "Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities, December 31, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>.

¹³ The Guardian, "Exclusive: Ice cancels deportation flight to Africa after claims of brutality," Julian Borger, February 4, 2021, <https://www.theguardian.com/us-news/2021/feb/04/ice-cancels-deportation-flight-african-asylum-seekers-brutality>.

¹⁴ The Guardian, "Outcry as more than 20 babies and children deported by US to Haiti, Ed Pilkington, February 8, 2021, <https://www.theguardian.com/us-news/2021/feb/08/us-ice-immigration-customs-enforcement-haiti-deportations>.

¹⁵ New Orleans Public Radio, "They Don't Care About Anything': Inside A COVID-19 Outbreak At One Louisiana Ice Facility," Rosemary Westwood, August 12, 2020, <https://www.wwno.org/post/they-dont-care-about-anything-inside-covid-19-outbreak-one-louisiana-ice-facility>.

¹⁶ The Intercept, "Immigrants Detained by ICE Say They Were Punished for Requesting COVID-19 Tests," Clarissa Donnelly-DeRoven, December 3, 2020, <https://theintercept.com/2020/12/03/etowah-ice-detention-covid-outbreak/>.

¹⁷ *Id.*

¹⁸ U.S. Immigration and Customs Enforcement, "COVID-19 Pandemic Response Requirements," October 27, 2020, <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>.

¹⁹ Politico, "Like Petri Dishes for the Virus: ICE Detention Centers Threaten the Rural South," Gaby Del Valle and Jack Herrera, May 5, 2020, <https://www.politico.com/news/magazine/2020/05/05/coronavirus-ice-detention-rural-communities-186688>.

LaSalle (Jena),²⁰ Winn,²¹ South Louisiana,²² Allen Parish,²³ Jackson Parish,²⁴ Catahoula,²⁵ LaSalle (Olla),²⁶ Richwood,²⁷ River,²⁸ Bossier,²⁹ and Tallahatchie.³⁰

While abuse and neglect in ICE facilities has been endemic for years, these incidents have happened with disturbing regularity and severity under the authority of the New Orleans ICE Field Office in particular. ICE officials and contractors must be held accountable if they have refused to treat people in their custody consistent with basic human dignity and with DHS rules and regulations. Asylum-seekers should not have to choose between brutality at home or brutality while seeking asylum. They should have access to a safe, dignified, and lawful environment, including being protected from contracting COVID-19 during the global health emergency.

In order to better understand whether ICE is fulfilling its responsibility to treat people in their custody fairly and humanely, we ask that you provide answers to the following questions no later than March 11, 2021:

²⁰ Mother Jones, “ICE Detainees Were Pepper Sprayed During a Briefing on Coronavirus,” Noah Lanard, March 26, 2020, <https://www.motherjones.com/politics/2020/03/ice-detainees-were-pepper-sprayed-during-a-briefing-on-coronavirus/>.

²¹ HuffPost, “ICE Detention Center Officials Indiscriminately Tear Gassed Asylum Seekers, Complaints Say,” Hayley Miller, August 16, 2020, https://www.huffpost.com/entry/ice-tear-gas-detainees-winn-correctional-center_n_5f35305ec5b6fc009a625a85.

²² The Intercept, “Women in ICE detention, fearing Coronavirus, make video to protest unsafe conditions,” Debbie Nathan, March 30, 2020, <https://theintercept.com/2020/03/30/coronavirus-ice-detention/>.

²³ Mother Jones, “Biden Pledged to Close Down For-Profit ICE Detention Centers. Will He Follow Through?” Noah Lanard, January 27, 2021, <https://www.motherjones.com/politics/2021/01/biden-pledged-to-close-for-profit-ice-detention-centers-will-he-follow-through/>.

²⁴ Mother Jones, “Detainees Describe Dire Conditions After the Hurricane Left ICE Jails Without Water or Power,” Noah Lanard, September 1, 2020, <https://www.motherjones.com/politics/2020/09/detainees-describe-dire-conditions-after-hurricane-leaves-ice-jails-without-water-or-power/>.

²⁵ The Lens, “Detainees at privately owned immigration facility say sheriff’s office broke up protest with pepper spray, projectiles,” <https://thelensnola.org/2020/05/27/detainees-at-privately-owned-immigration-facility-say-sheriffs-office-broke-up-protest-with-pepper-spray-projectiles/>.

²⁶ WWNO New Orleans Public Radio, “Louisiana ICE Detention Facilities Out of Power and Water, Detainees Report,” Rosemary Westwood, August 31, 2020, <https://www.wwno.org/post/louisiana-ice-detention-facilities-out-power-and-water-detainees-report>.

²⁷ KNOE 8 News, “Whistleblowers allege unsafe conditions at Richwood Correctional Center, watchdog group reports,” Tyler Wann, July 14, 2020, <https://www.knoe.com/2020/07/14/whistleblowers-allege-unsafe-conditions-at-richwood-correctional-center-watchdog-group-reports/>; Mother Jones, “ICE Detainee at Trouble For-Profit Jail Dies in Apparent Suicide,” Noah Lanard, October 17, 2019, <https://www.motherjones.com/politics/2019/10/ice-detainee-at-troubled-for-profit-jail-dies-in-apparent-suicide/>.

²⁸ BuzzFeed News, “ICE Often Gives Detained Immigrants Poor Medical Care and Uses Segregation as Punishment, a New Report Says,” Adolfo Flores and Hamed Aleaziz, September 21, 2020, <https://www.buzzfeednews.com/article/adolfoflores/ice-immigrants-poor-medical-care-segregation-report>.

²⁹ Mother Jones, “ICE Stops Using Jail Where Detainees Were Beaten and Pepper Sprayed,” Noah Lanard and Fernanda Echavarri, February 10, 2020, <https://www.motherjones.com/politics/2020/02/ice-stops-using-jail-where-detainees-were-beaten-and-pepper-sprayed/>.

³⁰ Mother Jones, “ICE is sending hundreds of asylum seekers to a private prison in Mississippi,” Noah Lanard, February 15, 2019, <https://www.motherjones.com/politics/2019/02/ice-is-sending-hundreds-of-asylum-seekers-to-a-private-prison-in-mississippi/>.

1. How many formal complaints has ICE received over the last five years regarding the welfare of people detained at its facilities and claims of enforced submissions to deportations? Please provide details on which facilities as well as the number and nature of the complaints.
2. According to ICE’s policy on the Use of Force and Restraints, “Physical force or restraint devices shall not be used as punishment” under any circumstances, and “[a]n employee shall submit a written report no later than the end of his/her shift when force was used on any detainee for any reason.”³¹ Please provide any documentation regarding the aforementioned allegations of use-of-force by the ICE personnel involved as well as documentation from the medical attention that they received after these alleged incidences occurred. Please describe in details ICE’s requirements and procedures for addressing complaints by asylum-seekers about the use-of-force by its employees.
3. Please provide specific details about how ICE has conducted or intends to conduct an investigation into the recent use-of-force reports by asylum-seekers. If ICE has conducted an investigation, what has it revealed?
4. Were the direct supervisors aware of these alleged uses of force, and did they pre-authorize them to occur? Please provide any and all documentation for any of the aforementioned allegations, including any audiovisual recordings of the incidents.
5. How many guards were alleged to be involved in these incidences? Have any of them had previous allegations of excessive use of force? Have the guards accused of these atrocities been removed from their positions and/or from interacting with asylum-seekers during ICE’s review of the alleged incidents?
6. Will ICE publicly release a report of its investigative findings as well as follow-up actions that the agency will take in light of these findings?
7. Please provide a listing of all inspections undertaken at each of the following facilities from the period of 2018 through the present (for each, please include the name of the sub-agency or contractor that completed the inspection, the date of the inspection, the scope of the inspection, whether it was announced or not, and a summary of the findings):

Adams County, Etowah County, Jackson Parish, LaSalle ICE - Jena, Pine Prairie, Richwood Correctional, River Correctional, South Louisiana, Winn Correctional; and the following facilities, which ICE recently discontinued use of reports of poor welfare and abuse of persons detained therein: Bossier Parish, Tallahatchie, Catahoula and LaSalle – Olla.

³¹ U.S. Immigration and Customs Enforcement, “2.15 Use of Force and Restraints,” <https://www.ice.gov/doclib/detention-standards/2011/2-15.pdf>.

8. Has ICE launched any previous investigations of the New Orleans ICE Field Office?
9. Please describe any and all contact, direct or indirect, concerning the above-referenced allegations of abuse between the following:
 - a. ICE and LaSalle Corrections – the private prison company that operates Richwood Correctional, River Correctional, Jackson Parish, and Winn;
 - b. ICE and GEO Group – the private prison company that operates Pine Prairie, South Louisiana (Basile), and LaSalle (Jena); and
 - c. ICE and CoreCivic – the private prison company that operates Adams County.

Please describe the timing and nature of all such communications and the identity of individuals involved.

10. Please describe any and all contact, direct or indirect, between ICE and the Winn Correctional Center, Etowah County Detention Center, Adams County Correctional Facility, and Jackson Parish Correctional Facility concerning the recent allegations at these facilities. Please describe the timing and nature of all such communications and the identity of individuals involved.
11. Are any of the aforementioned facilities from question 7 operating under ICE’s National Detention Standards³²? If not, what specific standards is ICE using to make sure that these facilities are accountable for compliance?
12. Are any of the aforementioned facilities from question 7 accredited? If so, what was the most recent accreditation date for these facilities, and what entity accredited them?
13. Please explain how ICE ensures all of the immigrant detention facilities under its jurisdiction are following protocols to keep asylum-seekers safe.
14. What guidance does ICE provide for how facilities should notify the family members of immigrants who get sick with COVID-19?
15. Please provide specific steps that ICE is taking to counter racism within the agency and within its ranks.³³ Does either ICE or DHS collect information regarding the use of force against people in its custody at all of its facilities and the demographic information for those persons? If so, please provide copies of this documentation.

³² U.S. Immigration and Customs Enforcement, “2019 National Detention Standards for Non-Dedicated Facilities,” <https://www.ice.gov/detain/detention-management/2019>.

³³ Southern Poverty Law Center, “ICE is using torture against Cameroonian immigrants to coerce deportation, according to new complaint filed by immigrant rights groups,” October 8, 2020, <https://www.splcenter.org/presscenter/ice-using-torture-against-cameroonian-immigrants-coerce-deportation-according-new>; Black Alliance for Just Immigration and NYU School of Law Immigrant Rights Clinic, “The State of Black Immigrants,” <https://stateofblackimmigrants.com/wp-content/uploads/2018/09/sobi-fullreport-jan22.pdf>.

16. How many people have been deported between November 2020 and the present? How many deportation flights have left the U.S. in that time period, and what have been their final destinations?
17. During the pendency of the TRO in *Texas v. U.S.* (S.D. Tex. 2021), Case No. 6:21-cv-00003 – staying the deportation moratorium – who at ICE makes decisions about who will be removed? Is it made at the Field Office level or at HQ, and what rank are the persons who make those decisions?
18. Once the stay in *Texas v. U.S.* is lifted and the deportation moratorium takes effect, what protocols will ICE follow to comply with the order?

Thank you for your attention to this important matter, and we look forward to your response.

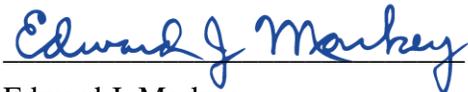
Sincerely,



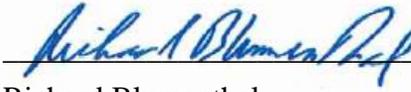
Elizabeth Warren
United States Senator



Cory A. Booker
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Edward J. Markey
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