



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

VIA ELECTRONIC MAIL

Assistant Director Stewart D. Smith

ICE Health Services Corps. (IHSC)
Immigration and Customs Enforcement
Department of Homeland Security
Washington, DC

Officer Cameron Quinn

Office for Civil Rights and Civil Liberties
Department of Homeland Security
Washington, DC

Acting Inspector General Jennifer Costello

Office of the Inspector General
Department of Homeland Security
Washington, DC

Acting Director Mark Morgan

Immigration and Customs Enforcement
Department of Homeland Security
Washington, DC

RE: SUPPLEMENT—Failure to Provide Adequate Medical and Mental Health Care to Individuals Detained in the Denver Contract Detention Facility

Dear Dr. Smith, Officer Quinn, Acting Director Morgan, and Acting Inspector General Costello:

The American Immigration Council (Council) and American Immigration Lawyers Association (AILA) submit this supplement to a complaint filed one year ago on June 4, 2018 on behalf of individuals detained at the Denver Contract Detention Facility in Aurora, Colorado—commonly known as the “Aurora facility.”¹

We remain concerned regarding the dangerously inadequate medical and mental health care at the Aurora facility, which threatens the health and welfare of detained individuals,² as well as their ability to pursue their immigration and asylum claims.

Several circumstantial factors over the past year have made the situation for individuals detained in the Aurora facility measurably worse. In January 2019, GEO Group, Inc. (GEO), the

1 “Failure to provide adequate medical and mental health care to individuals detained in the Denver Contract Detention Facility,” American Immigration Council and American Immigration Lawyers Association, June 4, 2018, http://www.americanimmigrationcouncil.org/sites/default/files/general_litigation/complaint_demands_investigation_into_inadequate_medical_and_mental_health_care_condition_in_immigration_detention_center.pdf.

2 Immigrant detainees in Aurora are being held pursuant to administrative—not criminal law—and therefore their care should be assessed under a Fifth Amendment due process standard, which mandates adequate medical care for civil detainees. See *Jones v. Blanas*, 393 F.3d 918, 933-34 (9th Circ. 2004), *cert denied*, 546 U.S. 820 (2005).

largest private prison company in the United States and which owns and operates the Aurora facility, expanded the detention center by opening a 432-bed annex (“Aurora South”), increasing the facility’s capacity to 1,532.³ Despite the drastic expansion, staffing of both GEO and ICE employees remains insufficient to manage the growing population. In fact, GEO continues to contract only one physician on staff at any one time to oversee the entire detained population.⁴

Meanwhile, the Department of Homeland Security (DHS) continues to request additional funding from Congress to detain an unprecedented number of immigrants in its network of immigration detention facilities across the country—recent reports indicate about 52,000 single adults are currently in ICE custody.⁵ Yet, the evidence continues to mount—in Aurora and elsewhere—that DHS is neither able nor inclined to responsibly and humanely hold those in its custody.

Earlier this month, the Office of the Inspector General (OIG) issued a report documenting “egregious” conditions at ICE facilities, including the Aurora facility, in 2018.⁶ The OIG produced the report following several unannounced site inspections between May and November 2018.⁷

Recently leaked DHS documents containing an internal memo bearing the subject line, “Urgent Matter,” indicate that the deaths of multiple individuals detained in ICE custody were preventable. In a December 3, 2018 memo addressed to Matthew Albence, then acting deputy director of ICE, one ICE supervisor stated: “IHSC [ICE’s Health Service Corps] is severely dysfunctional and unfortunately preventable harm and death to detainees has occurred.”⁸ In addition, ICE’s official review of the December 2017 death of Mr. Kamyar Samimi shortly after

3 “Immigration Detention Facility in Aurora Expands With 432-Bed Annex,” *Westword*, February 1, 2019, <https://www.westword.com/news/aurora-immigration-detention-facility-in-aurora-expands-with-432-bed-annex-11212275>.

4 “ICE facility in the middle of chicken pox outbreak has one doctor to treat 1,500 detainees, congressman says,” *VICE News*, Feb 21, 2019, https://news.vice.com/en_us/article/gyawby/ice-facility-in-the-middle-of-chickenpox-outbreak-has-one-doctor-to-treat-1500-detainees-congressman-says.

5 “ICE acting director says migrant family deportations are an option,” *CNN politics*, June 4, 2019, <https://www.cnn.com/2019/06/04/politics/ice-deportation-migrant-families/index.html>.

6 “Concerns about ICE Detainee Treatment and Care at Four Detention Facilities,” Office of the Inspector General, June 3, 2019, <https://www.oig.dhs.gov/sites/default/files/assets/2019-06/OIG-19-47-Jun19.pdf>.

7 “Exclusive: Homeland Security watchdog finds ‘egregious’ conditions at ICE facilities in 2018,” *CNN Politics*, June 6, 2019, <https://www.cnn.com/2019/06/06/politics/ice-detention-center-ig-report/index.html>.

8 “ICE Detainee Deaths Were Preventable: Document,” *TYT Investigates*, June 3, 2019, <https://tyt.com/stories/4vZLCHuQrYE4uKagy0oyMA/688s1LbTKvQKNCv2E9bu7h#.XPVRRqqvwu1E.twitter>.

being taken to the ER from the Aurora facility revealed that medical staff grossly mishandled his treatment.⁹ According to one account: “Along with failing to comply with ICE medical standards in a dozen instances, facility staff watched, but failed to effectively intervene, as Samimi deteriorated from opioid withdrawal.”¹⁰

Several outbreaks of mumps and chickenpox have taken place in the Aurora facility over the past few months.¹¹ GEO’s failure to vaccinate and properly screen individuals for medical and mental health, in addition to disability issues, has exacerbated the situation. The outbreaks and resulting cohorts to segregate the population have impeded access to attorneys, complicating immigrants’ ability to prepare for their legal case and underscoring the critical need for adequate medical care.

Enclosed you will find five additional stories which illustrate the government’s ongoing failure to provide adequate medical and mental health care to individuals detained in the Aurora facility. As in the original complaint, the following cases demonstrate how ICE and GEO repeatedly violate applicable detention standards, the U.S. Constitution, domestic law, and international law.

“Patrick,”¹² Stateless Man from Sudan, History of Suicide Attempts

Patrick was released from the Denver Contract Detention Facility in Aurora, Colorado the first week of June 2019 and was in the custody of ICE since August 2018. He has been diagnosed with a traumatic brain injury, a seizure disorder, depression, anxiety, bi-polar disorder, and post-traumatic stress disorder (PTSD). Patrick experienced at least two seizures while in custody in Aurora.

9 External Reviews and Analysis Unit, Detainee Death Review, Kamyar SAMIMI, Denver Contract Detention Facility, U.S. Department of Homeland Security, Immigration and Customs Enforcement, May 22, 2018, https://bento.cdn.pbs.org/hostedbento-prod/filer_public/RMPBS%20PDFs/RMPBS%20News/2018-ICFO-47347.pdf.

10 “Report: Immigration Detention Facility Mishandled Detainee Who Died,” *Westword*, May 21, 2019, <https://www.westword.com/news/report-aurora-immigration-detention-facility-mishandled-kamyar-samimi-11351337>.

11 “2,200 quarantined over mumps outbreak at ICE immigration centers in Aurora and Louisiana,” *The Denver Post*, March 12, 2019, <https://www.denverpost.com/2019/03/12/mumps-outbreak-quarantine-aurora-ice-immigration-center/>.

12 “Patrick” is a pseudonym which is being used at the request of the detained individual, who fears retaliation from ICE or GEO in connection to sharing details about his case.

Patrick has a history of at least two suicide attempts prior to being detained by ICE—both of which occurred while he was held in segregation at other facilities in the past. Patrick also attempted suicide during his detention at the Aurora facility. At the end of April, Patrick suffered a mental health crisis prompted by his frustration with the inadequate medical care he was receiving in detention. Prior to being detained, Patrick benefitted from weekly individual therapy, weekly group therapy, had a nurse who made house calls, and had access to a physician to regularly modify his prescriptions so that his medications could best meet his needs. He reports that he never had access to therapy in detention and as a result, his coping mechanisms to deal with stress deteriorated. Namely, after injuring his hand it took him two days to receive medical attention; he needed to elevate his request with a GEO lieutenant in order to gain access to a medical provider. However, once examined, the nurse mocked him, causing his mental stability to spiral. Based on threats of self-harm, Patrick was placed on suicide watch at the Aurora facility.

Patrick states that he initially refused to enter the room used for suicide watch because it was filthy. GEO staff members cleaned it in order for it to be habitable. Next, GEO guards forced Patrick to remove his shoes and socks—tackling and restraining him to ensure his compliance. Once left alone, Patrick tried to strangle himself using his clothing. Desperate, Patrick then began ramming his head into the wall. Shortly thereafter, he blacked out and does not remember the events that followed. GEO guards later told Patrick that he suffered from a seizure; however, this is not reflected in his medical records.

Patrick was subsequently held on suicide watch for about one week. Immediately following Patrick's suicide attempts he was seen by the GEO mental health provider who informed him that he would be sent to punitive segregation immediately following his time on suicide watch. Alarmed at the prospect of sending to segregation someone with a history of suicidal ideation in solitary confinement, Patrick's attorney reached out to GEO directly as well as ICE to ensure Patrick's medical history was in the forefront of the facility's calculation when determining the risk of placing him in punitive segregation. Patrick's attorney successfully leaned on disability rights attorneys to pressure the facility to place him back in the general population.

Separately, Patrick reports that for months he regularly received the wrong dose of his medications to control his seizure, and for his depression and anxiety, and the administration of his medications was improper. He has set times of the day when he has been instructed to take his medication for best efficacy. However, the distribution of medications during his detention was irregular—particularly during the evening shift at the detention facility—which sometimes caused Patrick to receive medication three to four hours later than the recommended time.

“Omar,”¹³ National of Mexico, Disabled Senior Citizen

Omar is 71 years old and confined to a wheelchair. He suffers from Parkinson’s Disease, a traumatic brain injury, chronic kidney disease, heart disease, a history of heart attacks, and dementia. He also has asthma, panic attacks, impaired vision and hearing, chronic lower back pain, depression, anxiety and PTSD, and is pre-diabetic. He has been detained in Aurora for 11 months, since July 2018.

Omar’s daughter comments on her father’s deteriorating health:

It hurts to see my father in such bad condition. It’s painful. He used to be so independent and walked just fine. Now he’s so dependent on others and has to use a wheelchair. I wish I could be the one to help him. I am a certified nurse and it’s so hard to see my dad suffering so much. It’s really hard to hear suicidal thoughts that he never had until he came here.

Omar was able to walk when he arrived at the Aurora facility. However, his mobility has severely deteriorated since being detained. Omar is unable to perform many daily tasks without assistance, including bathing, so relies on other people detained in the facility to help him including being pushed around the facility in this wheelchair. Omar has reported falling in the shower on more than one occasion. This poses serious safety risks due to the real potential for injury from a fall in the shower, and from care being delivered by unlicensed persons, other than his family, in incredibly private and personal circumstances.

Omar has stated that the administration of his medication is inconsistent. He suffers from daily migraines and complains that he is unable to sleep through the night on account of the pain he experiences. Omar reports being disoriented when the medical staff change the number of pills he is receiving each day without explaining why and he is unable to effectively report which medications he is not receiving when there are gaps in the administration of his medication. According to Omar, the nurse informed him that he was receiving fewer pills because they ran out of the medication he is supposed to receive. Because of Omar’s profound impairments, he is unable to determine whether he is receiving the correct medications and dosage and cannot self-advocate for adequate care. Omar reports that he fears he will die in the facility and never have the opportunity to return to his family.

¹³ “Omar” is a pseudonym which is being used at the request of the detained individual, who fears retaliation from ICE or GEO in connection to sharing details about his case.

It is unclear how many requests for medical attention Omar has successfully filed because he does not receive a copy of any communications electronically submitted on his behalf.¹⁴ Omar’s attorney has also requested specialized medical care for Omar and notified ICE of his inconsistent administration of medications.

An independent physician was contracted by Omar’s attorney to complete a medical evaluation in support of his legal case. In her report, the doctor describes some of her concerns:

It is my opinion that, if this client remains in detention or is deported to his home country, there could be potentially multiple risks to his health. He is living with physical disabilities, as well as mental disorders and disabilities that are not currently being appropriately treated. Specifically, in detention he has not received appropriate treatment for his asthma, panic attacks, anxiety, vision or hearing impairment, low back pain, headaches or Parkinson’s Disease [sic].

In April 2019, ICE denied Omar’s request for release on humanitarian parole, which was submitted due to concerns about his medical and mental health disabilities. After the immigration judge denied Omar’s request for a bond hearing, he appealed the denial to the Board of Immigration Appeals.

Omar is currently held in a dorm that is subject to a varicella “cohort” and was not brought for a legal visit with his attorney the first week of June 2019. Given Omar’s age and myriad medical vulnerabilities he is concerned about what this quarantine means for his wellbeing.

“Isabel,”¹⁵ National of Mexico, Transgender Woman Housed in Men’s Dorm without Medications

¹⁴ Omar is impeded from submitting requests for medical attention on his own because the process of doing so recently changed from a paper-based system to an all-electronic system through which people must submit complaints, grievances, requests for information, and medical appointment requests via tablets. Omar reports that he is not accustomed to using technology and he is unable to see well enough to submit the requests because of his deteriorating eyesight, so must rely on other detained individuals to help him.

¹⁵ “Isabel” is a pseudonym which is being used at the request of the detained individual, who fears retaliation from ICE or GEO in connection to sharing details about his case.

Isabel is a transgender woman who has been detained in the men’s dorm at the Aurora Facility since January 2019. During her period of detention, Isabel has been denied critical medical attention and has suffered repeated verbal and sexual harassment.

Isabel began hormone replacement therapy in 2011. Upon her arrival to the Aurora Facility in January 2019, she was forced to abruptly stop taking hormones despite notifying the medical staff that she had previously been on hormone therapy. Isabel has been deprived of hormones now for over three months, during the entire period of her detention. Isabel reports that at one point, medical staff informed her that she would be put on a list to see a specialist who could prescribe her hormones. In addition, both Isabel and her attorney have made numerous requests for medical care. However, Isabel still has not received an appointment with a specialist or received any form of hormone treatment. As a result, Isabel has suffered changes in her mood, appetite, and sleep in addition to physiological changes such as hair regrowth that have ultimately caused Isabel to experience feelings of depression and hopelessness. Isabel describes the effects that hormone withdrawal have had on her:

The experience of being taken off hormone treatment has been difficult for me. Being off hormones for months on end after taking them for eight years has changed my mood and made me feel depressed. I have lost a lot of hair. It is just not fair that they would treat me this way.

Isabel has also experienced significant harassment during her period of detention as a result of her transgender identity. Her placement in a men’s dorm in the Aurora Facility is problematic because Isabel is a transgender woman. To afford her some level of privacy, the intake staff at the Aurora Facility gave Isabel a sheet to obstruct others’ view while she uses the bathroom. However, on several occasions a detention center guard has taken the sheet down, exposing Isabel to the entire dorm. Isabel reported the harassment by the guard, and her attorney sent “high priority” messages to her Deportation Officer, the Aurora Facility Warden, and the GEO Prevention of Sexual Assault Compliance Manager; neither GEO nor ICE effectively responded to the complaints. Instead, a GEO representative suggested that Isabel hang a sign outside of the bathroom to notify the dorm and guards that a woman is using the restroom. Isabel has also been harassed by two male detainees housed in her dorm. Again, Isabel reported these incidents of harassment, and ICE failed to take any action. In Isabel’s words:

People at Aurora Facility—both male detainees and guards—sometimes think it is their right to harass and grope me. I think it is easy for them to target me because I am a transgender woman and they know I will not be able to defend myself.

Isabel’s attorney has requested that Isabel be immediately released from detention so that she may be free from harassment and receive the medical care she requires.

“Manuel,”¹⁶ El Salvador, Victim of Sexual Violence

Manuel is a 28-year-old man from El Salvador who was detained at the Aurora facility from January 2019 until May 2019. He suffers from a sexual trauma that he experienced in El Salvador before fleeing his country. He continues to suffer physically and psychologically from this past trauma. Manuel reports that during his period of detention, he experienced bleeding from his anus and severe pain when he used the restroom.

During his detention in the Aurora facility, Manuel was very ashamed and fearful about notifying medical staff or requesting medical attention due to the personal nature of his medical needs. He states that he was afraid other detained individuals would read the medical request form and draw assumptions that would make Manuel feel emasculated or subject him to abuse within the facility.

Manuel describes in his own words what he experienced in Aurora:

I don't wish this on anybody. Being detained there was terrible. The guards don't treat people well. They even say that they will not get us medical help unless we're dying. Not until we are dead will they help us. I would not wish this on anybody. There were so many bad experiences there.

Manuel's advocates encouraged him to seek medical help. They also requested his medical records and submitted a request for medical care on his behalf to the GEO Health Service Administrator. A week later, his advocates had not received a response to either inquiry. They included additional medical providers (the records department) on an email to elevate both the records request and the notification of his medical concerns. Two weeks later, his advocates had still not received a response to either inquiry. His attorney contacted the records department again, and finally received a response releasing his records. Neither Manuel nor his advocates ever received a response to their notification of his medical concerns, and his condition went untreated for the duration of his detention.

Manuel also suffered from overwhelming symptoms of psychological trauma including nightmares, sobbing, feeling like he was back in El Salvador being persecuted, consuming thoughts, overwhelming dread and sadness, feelings of hopelessness and anxiety, hypervigilance, and regret that the gang members hadn't killed him. Manuel's advocates

¹⁶ “Manuel” is a pseudonym which is being used at the request of the detained individual, who fears retaliation from ICE or GEO in connection to sharing details about his case.

arranged for an independent evaluator to come to the detention center to assess his mental health. A Licensed Clinical Social Worker conducted an evaluation with Manuel and diagnosed him with PTSD. She noted in her evaluation that the experience of being detained negatively impacted and exacerbated his PTSD symptoms.

Manuel was released from the detention facility on May 1, 2019. He failed to receive any medical care during his entire period of detention while at the Aurora facility despite multiple requests.

“Judith,”¹⁷ National of Mexico, Untreated Chronic Pain

Judith is a 42-year-old woman detained in the Aurora facility. She is currently being held in a new 432-bed wing of the facility called “Aurora South.” Before her detention in Aurora, Judith was detained at a detention center in Eloy, Arizona, where she slipped and fell while working in the kitchen. She received medical attention at the Eloy facility, including cortisone shots for her arm and knee injuries.

After her transfer to the Aurora facility, she was moved from one part of the facility to a different wing, Aurora South. Her condition worsened, in part because she had to carry her belongings from one part of the facility to another, exacerbating her injuries. Judith reports that simple tasks like going to the restroom, brushing her teeth, and combing her hair cause her great pain in her right arm. She walks unsteadily because her knee hurts and has not been treated. She even struggles to sleep because she is in such pain. Additionally, Judith reports that she and other detained individuals recently developed what appears to be an allergic reaction that covered her body in bumps and hives.

Judith met with a doctor in March 2019, four weeks after first requesting medical care. Judith reports that when she was seen by a doctor, the pills he prescribed did not alleviate her pain but rather caused an allergic reaction.

On two occasions—April and again in May—Judith authorized the transfer of her medical records from Eloy containing a prescription for the cortisone shots. However, to date, the records still have not been transferred to the medical personnel at Aurora and Judith has not been given any effective treatment for her condition. She has requested to see a specialist to receive a prescription for cortisone shots to ease her constant pain, but she has yet to be seen by a specialist.

¹⁷ “Judith” is a pseudonym which is being used at the request of the detained individual, who fears retaliation from ICE or GEO in connection to sharing details about her case.

At her most recent medical visit in May 2019, the doctor recommended that Judith receive an MRI to assess her injuries, but she has not yet had this exam three weeks later. According to Judith, one medical staff member recommended exercise to alleviate her pain; yet another medical staff member told her she shouldn't exercise if it is too painful.

Judith shares:

This place is awful. The lack of medical attention, the way the guards treat us... It is humiliating, rude, and inhumane. At one point, the pain after my accident was somewhat bearable. Now, my condition has become complicated because of their neglect. I was transferred here in February 2019. Four months later, I have not had proper medical attention, no transfer of past medical records, no MRI, and the medication I have been given has caused me more harm. I cannot take the pain any longer.

Judith has also requested to meet with a psychologist during her detention in Aurora South. She reports that she is feeling helpless, fatigued, and stressed as a result of her constant pain.

Conclusion

One year ago, our organizations shared grave concerns regarding the systemic failure on the part of both ICE and GEO to provide appropriate medical and mental health care to individuals detained in the Aurora facility. Problematic care, such as the cases described above, not only causes unnecessary suffering and places lives at risk, but it also profoundly impacts the ability of these individuals to effectively work with counsel and fight for their immigration cases. To date, we have failed to see any efforts taken by the agency to implement our recommendations or address these concerns in any meaningful way. In fact, despite site visits by both the Office for Civil Rights and Civil Liberties (CRCL), and the Office of the Inspector General (OIG), conditions continue to worsen and the population continues to grow.

We urge the Department of Homeland Security to take immediate action and implement meaningful oversight mechanisms to improve medical and mental healthcare at the Aurora facility. Until then, individuals will continue to needlessly suffer—and perish—in immigration detention facilities such as Aurora. As before, given the severity of these violations and the immediate impact on the health and safety of individuals detained in the Aurora facility, we request that you consider this supplement, and the original complaint, in an expedited manner.

If you have any questions or require additional information, please contact Katie Shepherd of the American Immigration Council at KShepherd@immcouncil.org. Pseudonymized declarations of the above complainants may be available upon request.

Sincerely,

American Immigration Council

American Immigration Lawyers Association