

United States Senate

WASHINGTON, DC 20510

February 6, 2020

The Honorable Chad Wolf
Acting Secretary
U.S. Department of Homeland Security
Nebraska Avenue Complex
3801 Nebraska Avenue NW
Washington, D.C. 20528

Matthew T. Albence
Acting Director
U.S. Immigration and Customs Enforcement
500 12th St., SW
Washington, D.C. 20536

Dear Acting Secretary Wolf and Acting Director Albence:

We write regarding the Fiscal Year (FY) 2020 Consolidated Appropriations Act provisions related to the detention of transgender migrants and the Department of Homeland Security's (DHS) compliance with the attendant report language. Specifically, we ask that you explain how Immigration and Customs Enforcement (ICE) is complying or plans to comply with congressional requirements for care of this vulnerable migrant population.

The explanatory statement accompanying the FY2020 Consolidated Appropriations Act directs ICE to "limit the detention of transgender people to facilities subject to a contract formally modified pursuant to Attachment 1 of the June 19, 2015 ICE memo entitled Further Guidance Regarding the Care of Transgender Individuals."

To date, it is unclear which ICE detention facilities, if any, have formally modified their contracts to provide a safe environment for transgender migrants as outlined in the 2015 memo. Therefore, ICE's detention of transgender individuals may not be in compliance with congressional direction. If ICE is failing to comply with the terms of the appropriations report, we request that ICE consider the supervised release of those individuals or place them in alternative-to-detention programming.

In the United States and around the world, transgender individuals face persecution that ranges from physical and sexual violence to other forms of mistreatment based on their gender identity and expression. This already vulnerable population faces a heightened and unique set of risks while in immigration detention. Transgender migrants and asylum seekers are particularly vulnerable to sexual harassment, solitary confinement, physical assault, and medical neglect. These inhumane

conditions and systematic abuses are evidenced in countless reports and accounts from formerly detained people.

The use of solitary confinement has caused particular harm to transgender migrants in detention. ICE has used solitary confinement and has detained transgender women in all-male facilities, placing them at risk of physical and mental health deterioration and vulnerability to sexual assault. The United Nations Human Rights Council recognizes that the placement of LGBT people in solitary confinement for their own “protection” or for punishment, during pretrial detention, or for prolonged periods can constitute a form of torture.

In May 2018, after being in ICE custody at Cibola County Correctional Center in Milan, New Mexico, Roxsana Hernandez Rodriguez, a transgender woman seeking asylum in the United States died of HIV-related complications. A little over a year after Roxsana’s death, Johana Medina León, another asylum-seeking transgender woman, died in a hospital in El Paso, Texas, shortly after being released from ICE custody. Johana reportedly requested medical attention while in custody, but was denied medical care by ICE.

We ask that you honor the longstanding reputation of the United States as a refuge for individuals who face persecution and adhere to the congressional directives regarding the treatment of transgender people in the statement accompanying the FY2020 appropriations bill. The United States is bound by domestic and international law to protect—not punish—vulnerable populations escaping from persecution.

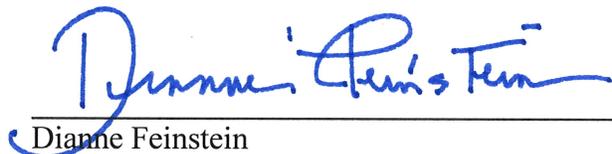
Please provide a detailed memorandum and plan, by March 31, 2020, for how ICE is currently complying and/or will plan to comply with this direction and semi-annual reporting to demonstrate such compliance. If you have any questions, please contact Jaron Goddard in Senator Murray’s office at jaron_goddard@murray.senate.gov or at (202) 224-6935.

We appreciate your attention to this matter.

Sincerely,



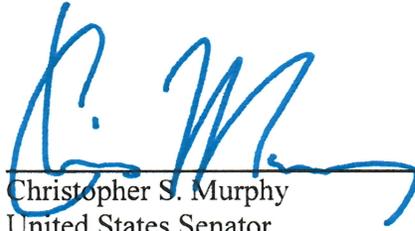
Patty Murray
United States Senator



Dianne Feinstein
United States Senator



Richard J. Durbin
United States Senator



Christopher S. Murphy
United States Senator



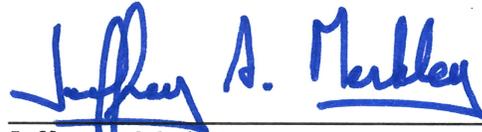
Tammy Baldwin
United States Senator



Tom Udall
United States Senator



Chris Van Hollen
United States Senator



Jeffrey A. Merkley
United States Senator