

May 15, 2008

Secretary Michael Chertoff
U.S. Department of Homeland Security
3801 Nebraska Ave. NW
Washington, D.C. 20528

Dear Secretary Chertoff:

We, the undersigned organizations, are writing to express our continued and serious concerns regarding the provision of medical care to immigration detainees. Based on conversations with detainees, service providers across the country and personnel in the Department of Homeland Security (DHS), we have identified several areas where we believe the provision of medical services must be dramatically improved.

First, we are deeply concerned that the Division of Immigration Health Services' (DIHS) stated mission does not comport with the Immigration and Customs Enforcement (ICE) Detention Standard on Medical Care and established principles of constitutional and international law. The ICE Detention Standard appropriately requires that detainees "have access to medical services that promote detainee health and general well-being." Yet by its own terms, the DIHS Covered Services Package primarily provides health care services for emergency care, defined as "a condition that is threatening to life, limb, hearing, or sight." The services package treats pre-existing conditions differently from those that develop during detention, and ties treatment decisions regarding conditions that cause deterioration in health or uncontrolled suffering to ICE's ability to effectuate deportation. In addition, documents released by the Washington Post reveal that at least one DIHS medical director identifies DIHS's mission as that of "keeping the detainee medically ready for deportation." This view was recently reinforced by Gary Mead, Acting Director of Detention and Removal Operations, on National Public Radio, when he questioned whether additional medical care must be provided once DIHS has ensured that a detainee is "medically capable of being removed." The position of the DIHS medical director and Gary Mead demonstrate how inconsistent DIHS's mission is with proper standards of care and ICE's own standards.

ICE and DIHS must modify the Covered Services Package and all related policies to reflect that their mission is to provide medical care in compliance with the ICE Detention Standard on Medical Care and all other ethical and legal standards. Our first recommendation is to immediately clarify the mission of DIHS to provide quality healthcare to everyone in DHS custody regardless of the status of their immigration case and to modify all related policies to reflect that mission.

Second, it is imperative that the agency eliminate the bureaucratic procedural hurdles that currently prevent on-site, treating clinicians from providing necessary and appropriate medical care to immigrants in detention. As you know, critical medical decisions are now made by off-site Managed Care Coordinators (MCCs) in Washington, D.C. rather than on-site or regional care coordinators. This process results in both unreasonable delays in the provision of medical care, and unjustifiable refusals to provide authorization. Our second recommendation is for DIHS and DHS to delegate decision-making authority to physicians who conduct evaluations on-site. Relatedly, we urge DHS to establish a national appeals board composed of independent physicians to review treatment authorization request denials.

Third, DHS must ensure continuity of care for detainees. Deterioration of pre-existing medical conditions or health problems that develop in detention can and must be prevented through meaningful safeguards and transparent guidelines. Our third recommendation is for DHS to inform detainees of available services and how to request them; provide prompt responses to all requests for health care and medical records; provide prescribed medications and medically-necessary treatment on schedule; and ensure that transfers do not harm the health needs of detainees.

Finally, and more broadly, we believe it is abundantly clear that the agency must establish more systemic oversight mechanisms for the provision of medical care to immigration detainees. DHS should issue regulations regarding medical care standards and practices; conduct investigations of all allegations of poor medical treatment; refer complaints to appropriate government agencies; allow for the public release of the reports of the Detention Facilities Inspection Group within the ICE Office of Professional Responsibility; report all deaths in detention to Congress and the Department of Homeland Security's Office of the Inspector General; and make more systematic use of secure community-based alternatives to detention for individuals with serious medical conditions and other vulnerable populations.

This letter highlights our recommendations regarding needed improvements for medical care but is not an exhaustive list of issues that should be addressed. As always, we are available to provide additional information regarding these issues. Thank you for your attention.

Signed by the following organizations:

American Civil Liberties Union
American Immigration Lawyers Association
Amnesty International USA
Asian American Justice Center
Catholic Legal Immigration Network, Inc.
Capital Area Immigrants' Rights Coalition
Human Rights First
Human Rights Watch
Jesuit Refugee Service/USA
Lutheran Immigration and Refugee Service
Massachusetts Immigrant and Refugee Advocacy Coalition
National Immigrant Justice Center
National Immigration Forum
National Immigration Law Center
National Immigration Project of the National Lawyers Guild
Physicians for Human Rights
The Advocates for Human Rights
Women's Commission for Refugee Women and Children

cc: Julie Myers, Assistant Secretary of Homeland Security, Immigration and Customs Enforcement

Daniel Sutherland, Officer for Civil Rights and Civil Liberties

Richard Skinner, Inspector General