

RON JOHNSON, WISCONSIN, CHAIRMAN

JOHN McCAIN, ARIZONA  
ROB PORTMAN, OHIO  
RAND PAUL, KENTUCKY  
JAMES LANKFORD, OKLAHOMA  
MICHAEL B. ENZI, WYOMING  
JOHN HOEVEN, NORTH DAKOTA  
STEVE DAINES, MONTANA

CLAIRE McCASKILL, MISSOURI  
THOMAS R. CARPER, DELAWARE  
JON TESTER, MONTANA  
HEIDI HEITKAMP, NORTH DAKOTA  
GARY C. PETERS, MICHIGAN  
MARGARET WOOD HASSAN, NEW HAMPSHIRE  
KAMALA D. HARRIS, CALIFORNIA

# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
WASHINGTON, DC 20510-6250

CHRISTOPHER R. HIXON, STAFF DIRECTOR  
MARGARET E. DAUM, MINORITY STAFF DIRECTOR

May 15, 2017

The Honorable John F. Kelly  
Secretary  
U.S. Department of Homeland Security  
Washington, DC 20528

Dear Secretary Kelly:

On August 26, 2016, Jeh Johnson, then-Secretary of the Department of Homeland Security, tasked the Homeland Security Advisory Council (HSAC) with creating a subcommittee, to assess the continued use of privately operated immigration detention facilities by the U.S. Immigration and Customs Enforcement (ICE).<sup>1</sup> This initiative followed the U.S. Department of Justice's (DOJ) announcement that the Bureau of Prisons (BOP) would reduce—and ultimately end—its use of privately operated prisons, after concluding that:

“[Private prisons] simply do not provide the same level of correctional services, programs, and resources; they do not save substantially on costs; and as noted in a recent report by the Department's Office of Inspector General, they do not maintain the same level of safety and security.”<sup>2</sup>

Accordingly, the HSAC Subcommittee on Privatized Immigration Detention Facilities (Subcommittee) spent approximately two months reviewing ICE policies, conducting interviews of various leadership stakeholders and subject matter experts, and visiting ICE detention facilities.<sup>3</sup> We write today regarding the Subcommittee's conclusion that DHS's use of private, for-profit detention facilities will continue.

The Subcommittee acknowledged the limitations of its inquiry, which according to the report, “would benefit from a more in-depth review of policies and procedures.”<sup>4</sup> The Subcommittee took a “high altitude view” of the subject, visited just two ICE detention facilities,

---

<sup>1</sup> Statement by Secretary Jeh. C. Johnson on Establishing a Review of Privatized Immigration Detention, U.S. DEP'T OF HOMELAND SECURITY (Aug. 29, 2016).

<sup>2</sup> Memorandum from Deputy Attorney General Sally Q. Yates for the Acting Director of the Federal Bureau of Prisons on Reducing our Use of Private Prisons, U.S. DEP'T OF JUSTICE (Aug. 18, 2016).

<sup>3</sup> Report of the Subcommittee on Privatized Immigration Detention Facilities, HOMELAND SECURITY ADVISORY COUNCIL, U.S. DEP'T OF HOMELAND SECURITY (Dec. 1, 2016).

<sup>4</sup> *Id.*

and conducted its entire review in approximately two months.<sup>5</sup> Despite these limitations, the HSAC report concluded that ICE's use of private detention facilities would continue and adopted 13 of the Subcommittee's 14 core recommendations. These included recommendations for additional funding to provide medical services at detention facilities, greater use of unannounced inspections, and the creation of well-defined channels for detainees and their families to report problems.<sup>6</sup>

On January 25, 2017, President Donald Trump signed Executive Order No. 13768, which calls for, among other things, a dramatic expansion of DHS's immigration enforcement priorities.<sup>7</sup> On February 20, 2017, you signed an implementation memorandum that serves as guidance for all DHS personnel. This memorandum makes clear that DHS will no longer exempt any classes or categories of removal aliens from enforcement, broadens prosecutorial discretion, and calls for the expeditious hiring of 10,000 additional ICE agents and officers.<sup>8</sup> The Subcommittee's report noted that as of September 12, 2016, 65 percent of ICE's detainee population was housed in facilities operated by private, for-profit contractors.<sup>9</sup> DHS's new immigration enforcement priorities raise concerns that DHS will rely even more heavily on these private detention facilities.

In order to better understand how DHS plans to utilize these facilities going forward, we ask that you please provide the following information by June 12, 2017:

1. Does DHS agree with each of the recommendations in the Subcommittee's report? If not, please identify any recommendations with which DHS does not agree. Is DHS working to implement these recommendations? If so, please provide a timeline for when DHS anticipates full implementation. If not, please provide an explanation for why DHS is not working to implement the recommendations.
2. Prior to DOJ's August 2016 announcement that the BOP would begin phasing out its use of private prisons, DOJ's Inspector General conducted an "extensive and data-driven inquiry" into the subject, which included, among other things, a thorough examination of 28 BOP facilities.<sup>10</sup> Does DHS have any plans to similarly conduct a more comprehensive review of ICE's use of private detention facilities that would include detailed visits to significantly more ICE-operated private facilities? Does DHS have any plans to conduct a policy review of the effectiveness of civil detention and any possible alternatives to civil detention?

---

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Exec. Order No. 13768 (Jan. 25, 2017).

<sup>8</sup> Memorandum from Secretary John Kelly on Enforcement of the Immigration Laws to Serve the National Interest, U.S. DEP'T OF HOMELAND SECURITY (Feb. 20, 2017).

<sup>9</sup> Report of the Subcommittee on Privatized Immigration Detention Facilities, HOMELAND SECURITY ADVISORY COUNCIL, U.S. DEP'T OF HOMELAND SECURITY (Dec. 1, 2016).

<sup>10</sup> *Id.*

3. Please list each private, for-profit immigration detention facility currently under contract with ICE, including names and locations. Does ICE currently intend to enter into contractual agreements with additional private, for-profit immigration detention facilities? If so, please provide us with the names and locations of those facilities, and when those contractual relationships are set to begin.
4. As of the date of this letter, what is the total number of detainees housed in privately operated ICE immigration detention facilities? Please break this information down by gender, age, and single adult or family detention and also include the most up-to-date FY17 Average Daily Population. Additionally, please provide the percentage of ICE's detainee population housed in private facilities, federally owned facilities, and facilities operated by other state or local government entities.
5. As of the date of this letter, what are the total number of correctional officers assigned to work in, and the total number of beds in privately operated ICE immigration detention facilities?
6. For each year from FY2013 to FY2017, what is the average ratio of detainees to correctional officers?
7. For each year from FY2013 to FY2017, what is the average ratio of detainees to ICE Health Service Corps staff?
8. Please provide the name and location of any privately operated ICE immigration detention centers that are currently housing more detainees than their rated capacity, and please quantify the detainee overage at each facility.
9. DOJ's Inspector General released a report in August 2016 noting that contract prisons had more safety and security-related incidents per capita than federal BOP institutions.<sup>11</sup> For each year from FY2013 to FY2017, what is the total number of safety and security-related incidents in privately operated ICE detention facilities, federally owned ICE detention facilities, and ICE detention facilities operated by other state or local government entities? In providing this response, please indicate how DHS defines a safety or security-related incident.
10. Please provide the last inspection date, type and rating for any privately operated ICE immigration detention center.
11. On January 25, 2017, President Trump also signed Executive Order No. 13767. Section 5 orders the Secretary to begin working towards the immediate construction, operation, and control of facilities to detain aliens at or near the land border with Mexico.<sup>12</sup> As of the date of this letter, please indicate the steps taken by DHS to allocate or reallocate

---

<sup>11</sup> Review of the Federal Bureau of Prisons' Monitoring of Contract Prisons, OFFICE OF THE INSPECTOR GENERAL, U.S. DEP'T OF JUSTICE (Aug. 2016).

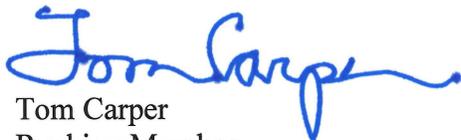
<sup>12</sup> Exec. Order No. 13767 (Jan. 25, 2017).

resources for the construction, operation, and control of additional detention facilities pursuant to Executive Order No. 13767. How much funding has DHS determined to be legally available for such efforts? Does DHS have the discretion to allocate fewer resources than the maximum amount that is legally available for new detention facilities?

If you or members of your staff have any questions about this request, please feel free to ask your staff to contact [REDACTED] Ranking Member Carper's office at 202-224-3721 or [REDACTED] Senator Harris's office at 202-224-3553. Thank you for your prompt attention to this matter.

With best personal regards, we are

Sincerely yours,



Tom Carper  
Ranking Member  
Permanent Subcommittee on Investigations



Kamala D. Harris  
U.S. Senator

cc: The Honorable Rob Portman  
Chairman  
Permanent Subcommittee on Investigations

The Honorable John Roth  
Inspector General  
U.S. Department of Homeland Security