



March 5, 2024

Michael D. Lumpkin
Chief of Staff
U.S. Immigration and Customs Enforcement
Washington, DC 20528

Via Email

RE: Request for Meeting About Closing the Torrance County Detention Facility

Dear Mr. Lumpkin:

We write to urge ICE to terminate its contract for the Torrance County Detention Facility, located in Estancia, New Mexico, and owned and operated by CoreCivic. ICE should terminate its detention contract at Torrance due to well-documented dangerous conditions, persistent understaffing, and chronic violations of federal detention standards. In February 2022, the DHS Office of Inspector General (OIG) issued an unprecedented alert calling for ICE to immediately remove all people from the facility due to the dangerous conditions. In the same year, Torrance failed a Prison Rape Elimination Act (PREA) audit. DHS officials have reportedly recommended that the facility be closed as a cost-saving measure, as “the daily cost to house a detainee [at Torrance] was more than double the average.”¹ Members of Congress² and the media³ have repeatedly documented dangerous conditions at Torrance, calling for increased oversight and closure.

¹ Ted Hesson, “Exclusive: Biden officials kept immigration jails despite internal cost concerns,” REUTERS (Sept. 27, 2023), <https://www.reuters.com/world/us/biden-officials-kept-immigration-jails-despite-internal-cost-concerns-2023-09-27/>.

² “Members of N.M. delegation call for increased oversight at CoreCivic detention facility in Torrance County after asylum seekers face barriers to legal representation” (Dec. 17, 2021), <https://www.heinrich.senate.gov/newsroom/press-releases/members-of-nm-delegation-call-for-increased-oversight-at-corecivic-detention-facility-in-torrance-county-after-asylum-seekers-face-barriers-to-legal-representation>; “N.M. Congressional Democrats condemn inhumane conditions at Torrance County Detention Facility” (Mar. 18, 2022), <https://stansbury.house.gov/media/press-releases/nm-congressional-democrats-condemn-inhumane-conditions-torrance-county>; “Heinrich leads request for immediate action from ICE to address inhumane, unsafe conditions for migrants at the Torrance County Detention Facility” (Oct. 20, 2022), <https://www.heinrich.senate.gov/newsroom/press-releases/heinrich-leads-request-for-immediate-action-from-ice-to-address-inhumane-unsafe-conditions-for-migrants-at-the-torrance-county-detention-facility>; “Video: Heinrich secures commitment from DHS Secretary Mayorkas to review Torrance detention center” (Nov. 9, 2023), <https://www.heinrich.senate.gov/newsroom/press-releases/video-heinrich-secures-commitment-from-dhs-secretary-mayorkas-to-review-torrance-detention-center>; “Stansbury, Jayapal call for transparency on conditions at immigration detention centers” (Feb. 16, 2024), <https://stansbury.house.gov/media/press-releases/stansbury-jayapal-call-transparency-conditions-immigration-detention-centers>.

³ E.g., Ted Hesson, “Exclusive: Biden officials kept immigration jails despite internal cost concerns,” REUTERS (Sept.

CoreCivic continues to receive almost \$2 million from ICE on a monthly basis to operate this dysfunctional facility, resulting in a tremendous waste of taxpayer money.⁴ Torrance has a guaranteed minimum of 505 beds at a monthly rate of \$1,930,957.98, and yet Torrance's average daily ICE population is well below the guaranteed minimum.⁵ The FY 2024 average detainee population has been about 378.⁶ This unused bed space is a particularly poor use of ICE's resources. Additionally, the dangerous conditions at Torrance, coupled with the negative publicity and liability arising from these ongoing and persistent issues, which are detailed in this letter, exacerbate the problem.

We request a meeting with your office in order to further discuss our serious concerns about Torrance, the extensive failures and dangerous conditions at the facility, and to urge your office to terminate the contract for Torrance.

I. Dangerous conditions at Torrance are well-documented and fall short of regulatory and constitutional standards.

ICE's Performance Based National Detention Standards ("PBNDS") set a baseline of care that CoreCivic must provide to detained immigrants held at Torrance.⁷ DHS has extensively documented CoreCivic's repeated and consistent violation of the PBNDS. Conditions at Torrance are dangerous and unsanitary, marked by chronic understaffing and mismanagement, falling below regulatory and constitutional standards. In February 2022, DHS OIG issued an unprecedented alert calling for ICE to immediately remove all people from the facility due to the dangerous conditions, including water leaks and clogged toilets full of human waste.⁸ In March 2022, an ICE Contracting Officer issued a Contract Discrepancy

27, 2023), <https://www.reuters.com/world/us/biden-officials-kept-immigration-jails-despite-internal-cost-concerns-2023-09-27/>; Maria Sacchetti, "Inspector general, ICE clash over conditions at immigration detention facility in New Mexico," WASH. POST (Mar. 18, 2022), <https://www.washingtonpost.com/national-security/2022/03/18/ice-detention-unsanitary-new-mexico/>; Morgan Lee, "Asylum-seekers are being set up for rejection at a New Mexico detention facility, rights groups say," ASSOCIATED PRESS (Aug. 22, 2023), <https://apnews.com/article/migrant-advocates-criticize-detention-center-1c9b5c245e6fddeb8d99583988caacd3>; Eileen Sullivan, "A.C.L.U. says immigration detention facility should be shut down," N.Y. TIMES (Sept. 22, 2022), <https://www.nytimes.com/2022/09/22/us/politics/aclu-ice-immigration-detention.html>; Rafael Bernal, "Suicide attempts highlight mental health concerns in immigrant detention," THE HILL (Mar. 3, 2023), <https://thehill.com/latino/3881755-suicide-attempts-highlight-mental-health-concerns-in-immigrant-detention/>; Maurizio Guerrero, "Torture with impunity runs rampant in ICE facilities," PRISM (June 15, 2023), <https://prismreports.org/2023/06/15/torture-rampant-ice-facilities/>; María Inés Taracena, "The dark truth of Biden's immigration policy," THE NEW REPUBLIC (Apr. 12, 2023), <https://newrepublic.com/article/171665/biden-immigration-policy-dark-truth>.

⁴ Joshua Bowling, "Immigration invoice," SEARCHLIGHT NEW MEXICO (Nov. 23, 2022), <https://searchlightnm.org/immigration-invoice/>.

⁵ U.S. Dep't of Homeland Sec. Ofc. of Inspector Gen., *Violations of ICE Detention Standards at Torrance County Detention Facility*, No. OIG-22-75, at 19 (Sept. 28, 2022), <https://www.oig.dhs.gov/sites/default/files/assets/2022-09/OIG-22-75-Sep22.pdf>.

⁶ U.S. Imm. & Customs Enf. *Detention Management*, <https://www.ice.gov/detain/detention-management>.

⁷ U.S. Imm. & Customs Enf., PERFORMANCE-BASED NATIONAL DETENTION STANDARDS 2011, rev. Dec. 2016, <https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf>.

⁸ U.S. Dep't of Homeland Sec. Ofc. of Inspector Gen., *Management Alert – Immediate Removal of All Detainees from the Torrance County Detention Facility*, No. OIG-22-31 (Mar. 16, 2022), <https://www.oig.dhs.gov/reports/2022/management-alert-immediate-removal-all-detainees-torrance-county-detention-facility/oig-22-31-mar22->

Report, documenting the persistence of multiple violations of federal immigration standards. In 2022, Torrance failed a Prison Rape Elimination Act (PREA) audit, and continued to fail on multiple counts even after a six-month corrective action period.⁹ The DHS Office of Civil Rights and Civil Liberties (CRCL) has repeatedly documented serious concerns about the facility.¹⁰ As DHS's own oversight agencies have documented:

- Kesley Vial, a young Brazilian man detained at Torrance, died in August 2022 following a fatal suicide attempt at the facility. According to the allegations in a wrongful death suit regarding Mr. Vial, on the day of his suicide, Mr. Vial was distraught due to the repeated postponement of his removal and yet CoreCivic personnel at Torrance failed to conduct a proper suicide risk assessment or evaluation, and in fact permitted him to isolate himself in a cell to which he was not assigned and locked him in during count for at least 29 minutes; he was found hanging from a sheet which he had tied to a shelf.¹¹ In ICE's review of Mr. Vial's death, the agency found that Torrance had failed to comply with multiple requirements of the 2011 PBNDS regarding Mr. Vial's medical care, safety, and security. ICE also found that no procedures were in place regarding the monitoring or approval of detainee cell changes.¹²
- Sinks in the cells at Torrance where detained immigrants are held are broken and nonfunctional, and yet the facility routinely fails to take cells "offline" or remove detained people from cells with broken porcelain fixtures, as DHS CRCL documented in its memorandum regarding its on-site investigation at Torrance in mid-2022.¹³ The oversight agency further documented that Torrance fails to adhere to 2011 PBNDS requirements for food safety, and that Torrance personnel are not responsive to sick call requests and provide insufficient medical assessments.
- Torrance fails to accurately document the administration of medication to detained immigrants, fails to consistently track lab test results in detained immigrants' medical files, and fails to keep

mgmtalert; *see also* ACLU of New Mexico, "ACLU-NM urgently demands termination of Torrance County Detention Facility's ICE contract, new DHS watchdog report details 'egregious' conditions" (Sept. 30, 2022), <https://www.aclu-nm.org/en/press-releases/aclu-nm-urgently-demands-termination-torrance-county-detention-facilitys-ice-contract>.

⁹ ACLU of New Mexico, "Torrance County Detention Facility audit reveals troubling sexual abuse policy violations, says ACLU-NM" (Feb. 23, 2023), <https://www.aclu-nm.org/en/press-releases/torrance-county-detention-facility-audit-reveals-troubling-sexual-abuse-policy>.

¹⁰ U.S. Dep't of Homeland Sec. Ofc. of Civ. Rts. & Civ. Liberties, *Expert Recommendations Memo to ICE Concerning Torrance County Detention Facility* (Sept. 26, 2022), <https://www.dhs.gov/publication/expert-recommendations-memo-ice-concerning-torrance-county-detention-facility>.

¹¹ ACLU of New Mexico, "ACLU sues private prison company after preventable death of asylum seeker at Torrance detention facility" (Sept. 27, 2023), <https://www.aclu-nm.org/en/press-releases/aclu-sues-private-prison-company-after-preventable-death-asylum-seeker-torrance>. Mr. Vial's wrongful death estate is represented by the ACLU of New Mexico and the law firm of Coyle & Benoit, PLLC.

¹² U.S. Imm. & Customs Enf., *Detainee Death Review Report: Kesley Vial* at 16–17 (Dec. 8, 2022), https://www.ice.gov/doclib/foia/reports/ddrKesleyVial_opr.pdf.

¹³ U.S. Dep't of Homeland Sec. Ofc. of Civ. Rts. & Civ. Liberties, *Expert Recommendations Memo to ICE Concerning Torrance County Detention Facility* (Sept. 26, 2022), <https://www.dhs.gov/publication/expert-recommendations-memo-ice-concerning-torrance-county-detention-facility>.

controlled substances secure, as the DHS OIG documented in its February 2022 inspection.¹⁴ Torrance also fails to meet 2011 PBNDS requirements regarding dental care and chronic care.¹⁵

- Detained immigrants at Torrance are insufficiently supervised due to critical staffing shortages, with housing unit control rooms going unstaffed and medical unit vacancies impacting the level of care provided to detained immigrants for suicide watch, dental care, and chronic care.¹⁶ Immigrants held in segregation at Torrance “had not been let out for a week,” as ICE documented at the time of the DHS OIG site inspection in February 2022.¹⁷

The ICE Contracting Officer who oversees the contract for Torrance has repeatedly documented how ongoing violations of the 2011 PBNDS and other contractual obligations “seriously impact the El Paso Field Office’s ability to support the southwest border security mission.” In particular:

- Torrance has had “critical medical staffing shortages,” in violation of the staffing levels that CoreCivic is contractually obligated to adhere to, as ICE documented in a contract discrepancy report in late 2020. ICE found that CoreCivic’s Chief Medical Officer, who was acting as the facility’s primary physician, “ha[d] not been dedicated to the Torrance contract and ha[d] been supporting multiple facilities at the time, which ha[d] resulted in very limited coverage.”
- In late 2021, ICE identified ongoing staffing shortages as “of major concern operationally and contractually” and communicated to CoreCivic that a daily staffing audit and other action plans were necessary to address deficiencies and get Torrance in line with PBNDS standards.¹⁸
- In March 2022, ICE stated in a contract discrepancy report for Torrance that the “critically short staffing plans are directly responsible for the breakdown in the overall operational capabilities” of the facility. ICE found that “CoreCivic has not been able to demonstrate the ability to provide a safe environment for staff and noncitizens, provide the necessary security for proper facility security and control measures, and care necessary to ensure proper facility maintenance, overall cleanliness, and personal hygiene needs described in the PBNDS standards.”

People currently and formerly detained at Torrance have repeatedly sounded the alarm about abuse, neglect, and due process issues.¹⁹ Notably, a group of Haitian immigrants who were originally apprehended and subject to brutality in Del Rio, Texas in the fall of 2021 were then detained in Torrance, where they were denied due process and access to counsel.²⁰ Conditions at Torrance effectively prevented these individuals, many of whom were victims or witnesses to civil rights violations in Del Rio, from communicating with legal counsel, obtaining basic information about their rights, or

¹⁴ U.S. Dep’t of Homeland Sec. Ofc. of Inspector Gen., *Violations of ICE Detention Standards at Torrance County Detention Facility*, No. OIG-22-75, at 12–13 (Sept. 28, 2022), <https://www.oig.dhs.gov/sites/default/files/assets/2022-09/OIG-22-75-Sep22.pdf>.

¹⁵ *Id.* at 11–12.

¹⁶ *Id.* at 6–10.

¹⁷ Innovation Law Lab, “Innovation Law Lab v. ICE” (June 13, 2022), <https://innovationlawlab.org/press-release/litigation/foia-production-torrance-county-detention-facility/>.

¹⁸ *Id.*

¹⁹ ACLU of New Mexico, “Immigrants detained at Torrance County Detention Facility in New Mexico announce hunger strike, issue collective protest letter” (Sept. 28, 2022), <https://www.aclu-nm.org/en/press-releases/immigrants-detained-torrance-county-detention-facility-new-mexico-announce-hunger>.

²⁰ ACLU of New Mexico, “Groups demand ICE allow detained Haitians access to legal services” (Nov. 9, 2021), <https://www.aclu-nm.org/en/press-releases/groups-demand-ice-allow-detained-haitians-access-legal-services>.

preparing to present their claims for relief in removal proceedings. Many were not provided access to counsel or to legal resources in Haitian Kreyol for at least a month while they were detained at Torrance, despite the repeated requests of pro bono attorneys.

More recently, detained people have documented ongoing due process violations and human rights abuses at the facility.²¹ A DHS CRCL complaint submitted in August 2023 exposed inhumane conditions and mistreatment, including negligent medical and mental health care, physical assaults by guards, labor exploitation, and retaliation by facility personnel. Still, these issues have persisted.

II. Torrance's extensive failures have exposed ICE and CoreCivic to legal liability.

Because of the Torrance facility's persistent endangerment of the lives of people seeking asylum, and CoreCivic's chronic mismanagement of the facility, the federal government and CoreCivic have faced significant exposure to legal liability.

A group of immigrants detained at Torrance sued DHS, ICE, and named federal officials for certifying a sham inspection in 2022 that allowed ICE to evade federal law and continue detaining immigrants at the facility, despite known ongoing violations of federal detention standards.²² Congress has mandated that ICE cancel its contract with any immigration detention facility that fails two consecutive overall performance evaluations, which measure a facility's compliance with federal immigration detention standards. The lawsuit, which was filed in the U.S. District Court for the District of New Mexico, is ongoing.

The wrongful death estate of Kesley Vial, a Brazilian asylum seeker who died in custody, has also filed a lawsuit against CoreCivic.²³ As discussed above, Mr. Vial was held in ICE custody at Torrance and died from a fatal suicide attempt in August 2022. The lawsuit identifies serious systemic failures and shortcomings in the facility's mental health care and charges that CoreCivic's extreme negligence resulted in Mr. Vial's tragic and preventable death.

Nine people seeking asylum from Cuba and Guatemala and the Santa Fe Dreamers Project sued CoreCivic for deploying pepper spray without justification in May 2020 to break up a peaceful hunger strike.²⁴ The lawsuit had alleged that the individual plaintiffs were subject to arbitrary and excessive force by CoreCivic personnel at Torrance when they were pepper-sprayed in their housing unit.

²¹ ACLU of New Mexico, "Leading advocacy organizations submit federal complaint regarding ongoing human rights violations at Torrance County Detention Facility" (Aug 23, 2023), <https://www.aclu-nm.org/en/press-releases/leading-advocacy-organizations-submit-federal-complaint-regarding-ongoing-human>.

²² ACLU of New Mexico, "Immigrants detained at Torrance County Detention Facility sue ICE over sham inspection" (Nov. 8, 2023), <https://www.aclu-nm.org/en/press-releases/immigrants-detained-torrance-county-detention-facility-sue-ice-over-sham-inspection>. The plaintiffs are represented by pro bono attorneys at Quinn Emanuel Urquhart & Sullivan, LLP, National Immigrant Justice Center, Innovation Law Lab, and the American Civil Liberties Union (ACLU) of New Mexico.

²³ ACLU of New Mexico, "ACLU sues private prison company after preventable death of asylum seeker at Torrance detention facility" (Sept. 27, 2023), <https://www.aclu-nm.org/en/press-releases/aclu-sues-private-prison-company-after-preventable-death-asylum-seeker-torrance>. Mr. Vial's wrongful death estate is represented by the ACLU of New Mexico and the law firm of Coyle & Benoit, PLLC.

²⁴ ACLU of New Mexico, "Immigrants' rights groups resolve case against CoreCivic alleging guards pepper-sprayed asylum-seekers engaged in hunger strike at immigration detention facility" (Aug. 3, 2023), <https://www.aclu->

III. Conclusion.

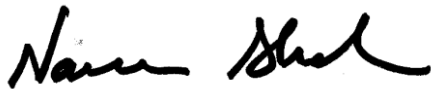
We urge ICE to take immediate action to terminate the ICE contract for the Torrance facility. We trust that ICE can fulfill its mission without reliance on a facility that has become notorious for endangering lives and failing in its basic duties regarding safety and care. We request an opportunity to meet with you to discuss the concerns outlined in this letter and renew our request for contract termination.

Thank you for your attention to this matter.

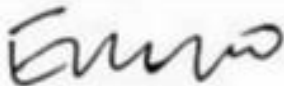
Sincerely,



Peter Simonson
Executive Director
ACLU of New Mexico



Naureen Shah
Deputy Director of Government Affairs, Equality Division
American Civil Liberties Union



Eunice Cho
Senior Staff Attorney
National Prison Project
American Civil Liberties Union

CC: Shoba Sivaprasad Wadhia, DHS Officer for Civil Rights and Civil Liberties
Royce Murray, Counselor to Secretary Mayorkas

[nm.org/en/press-releases/immigrants-rights-groups-resolve-case-against-corecivic-alleging-guards-pepper](https://www.aclu.org/en/press-releases/immigrants-rights-groups-resolve-case-against-corecivic-alleging-guards-pepper). The plaintiffs were represented by the ACLU of New Mexico, the New Mexico Immigrant Law Center (NMILC), and Montgomery & Andrews, P.A.