

Via Federal Express

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**Re: JOHN DOE'S INADEQUATE MEDICAL CARE AT
HUDSON COUNTY CORRECTIONAL FACILITY**

Dear Sirs and Madams:

We write on behalf of our client, John Doe.¹ Mr. Doe was detained at Hudson County Correctional Facility² by United States Immigration and Customs Enforcement³ for almost seventeen months, commencing in November 2014. Mr. Doe experienced significant life-threatening problems with the medical care he received during his detention.

During his detention, Mr. Doe was diagnosed with advanced cancer. Over the course of the previous year, Mr. Doe repeatedly requested medical care from medical providers and staff at

¹ Mr. Doe wishes to remain anonymous for the purpose of this open letter and will be referred to throughout as "Mr. Doe." NYLPI will provide Mr. Doe's name and identifying information so that the addressed recipients may conduct a formal review, if requested.

² Hereinafter "Hudson County Correctional"

³ Hereinafter "ICE"

Hudson County Correctional. Inexplicably, his requests were ignored or inadequately addressed. Shortly after Mr. Doe's diagnosis, and just as his cancer treatment had commenced, he was abruptly released from detention without proper medical discharge planning. Mr. Doe's cancer may have progressed unchecked during his detention because of delays in diagnosis and treatment.

For a variety of reasons, Mr. Doe has opted not to file a lawsuit regarding the inadequate medical care he received. Rather, Mr. Doe and New York Lawyers for the Public Interest ("NYLPI") submit this letter to bring your attention both to this individual case, and also to the conduct of the various responsible government agencies and companies, who, in our experience, routinely provide poor medical care to people who are held in immigration detention. Multiple medical doctors have reviewed Mr. Doe's case at our request, including his medical records, and their assessments form the basis of this complaint. Mr. Doe hopes that this information will improve medical care for other people who are detained by ICE, and particularly those who are housed at Hudson County Correctional.

As you know, ICE maintains Performance Based National Detention Standards ("ICE Detention Standards") for the purpose of standardizing the custody and care of the people held in immigration detention facilities across the country. The PBNDS include, among other things, the obligation to provide "care and treatment . . . that includes monitoring of medications [and] diagnostic testing" for detainees with chronic conditions, as well as continuity of care for all detainees that receive medical treatment. Continuity of care includes, a plan for continuity of medical care, a summary of medical records, any necessary medication, and referrals to community-based providers. ICE is supposed to conduct annual reviews of detention facilities to confirm that they are meeting these standards.

We request your consideration of the recommendations proposed below. We further request that you meet with us to discuss this matter as it relates to Mr. Doe, and as it relates to the broader population of people confined to immigration detention at Hudson County Correctional.

I. BACKGROUND

Mr. Doe is a man in his 40s who was confined to ICE detention at Hudson County Correctional from November 25, 2014 until April 12, 2016. Mr. Doe was diagnosed HIV-positive years prior to his detention. Because he is HIV-positive, Mr. Doe has a compromised immune system and an elevated risk of developing certain cancers, infections, and other illnesses.

Prior to ICE detention, Mr. Doe's health was stable, he was maintaining his chronic illness, and living in the community. He paid rent on an apartment in Manhattan, spent time with friends, and worked as a driver.

At the time Mr. Doe was released from ICE detention, he had Stage 4 cancer, which he will battle to some degree for the rest of his life. His exact prognosis is unknown. Mr. Doe believes that if his condition had been identified and treated in a timely manner, he would not be

as vulnerable today. While the precise impact of the delays on Mr. Doe's condition is difficult to quantify, medical experts agree that it is better to identify and consider treatment for cancer at the earliest possible stage, and that any delays or interruptions in these processes may increase negative health outcomes.

II. MR. DOE RECEIVED POOR MEDICAL CARE AT HUDSON COUNTY CORRECTIONAL

Several government agencies and companies share responsibility for providing medical care to those confined to civil immigration detention at Hudson County Correctional: (1) the United States of America through its agencies the Department of Homeland Security and Immigration and Customs Enforcement; (2) Hudson County, New Jersey; and (3) CFG Health Systems, and the medical professionals Hudson County employs.

Pursuant to the United States Constitution, contractual obligations with ICE, and the ICE Detention Standards, the Entities were obligated to provide adequate medical care to Mr. Doe while he was detained at Hudson County Correctional. However, this did not happen and Mr. Doe received poor medical care while he was confined to immigration detention at Hudson County Correctional.

Mr. Doe entered Hudson County Correctional on November 25, 2014. The Entities had actual notice of Mr. Doe's HIV status prior to his arrival. Additionally, upon his arrival at Hudson County Correctional, multiple employees of the Entities, including an ICE employee, screened Mr. Doe during his intake, reviewed his intake medical forms, and ordered an assessment regarding his diagnosis and HIV medication regimen. Due to his HIV status, Mr. Doe has a compromised immune system and an elevated risk of developing certain cancers, infections, and other illnesses. The Entities knew or should have known about these risk factors.

In approximately January 2015, Mr. Doe informed medical staff at Hudson County Correctional that he felt pain in his anus. Medical staff diagnosed Mr. Doe with hemorrhoids, but did not provide follow up or rule out other illnesses related to his symptoms, as is required to meet common professional standards. Over the course of the next year, Mr. Doe had pain in his rectum, anus, and back; was bleeding and straining when he would defecate; had swelling in his feet and ankles; was fatigued; and had numbness that extended from his back to his leg.

However, despite knowledge of the range and severity of Mr. Doe's symptoms and his HIV status, the Entities did not provide him with appropriate follow up, diagnostic screening, or treatment. The Entities apparently provided no follow up diagnostic testing for Mr. Doe to rule out more serious diagnoses. Mr. Doe made reports to the medical staff who conducted prescription rounds in his house, to the guards, and to an HIV specialist. However, there is little documentation of these reports in Mr. Doe's CFG Health Systems medical records, which are sparse and fail to consistently document information necessary to monitor and treat health issues. Mr. Doe also lived in fear that other people in detention would assault him if they knew that he was HIV positive or having health complications. He already experienced frequent harassment based on his sexual orientation.

It is important to note that if Mr. Doe had received medical treatment in the community during this period, as he did before he was detained, he likely would have received regular cancer screenings. This information is based on Mr. Doe's extensive, known medical history.

In approximately November 2015, while still in detention, Mr. Doe had an annual physical exam and medical staff examined his anus and rectum. On approximately January 16, 2016, **approximately one full year after Mr. Doe's initial complaint**, the Entities finally conducted follow up and sent Mr. Doe to East Orange Hospital for an outside consult. The East Orange Hospital exam indicated that Mr. Doe had a mass in his anus and that he required a colonoscopy for further diagnosis. On approximately February 22, 2016, University Hospital in Newark, New Jersey (hereinafter "the hospital"), performed a colonoscopy on Mr. Doe. The hospital diagnosed Mr. Doe with a cancerous rectal mass.

The Entities then scheduled Mr. Doe for an April 7, 2016 surgical procedure to have a Mediport installed, which is the first step in cancer treatment. A Mediport is a medical device that functions as an artificial vein that is implanted under the skin and allows the patient to receive chemotherapy. Mediports carry some risk of infection and may require continued care by a physician, including flushing to prevent secondary infection. The hospital scheduled a follow up visit for Mr. Doe on April 19, 2017, approximately one week later, presumably to begin chemotherapy. However, the Entities abruptly released Mr. Doe from Hudson County Correctional on April 12, 2017 with no plan for continuity of care or any information regarding how to maintain the Mediport already in his body.

III. MR. DOE DID NOT RECEIVE APPROPRIATE DISCHARGE PLANNING FROM HUDSON COUNTY CORRECTIONAL

The Entities were obligated to provide discharge planning to Mr. Doe. However, they failed to do so. On approximately April 12, 2016, five days after Mr. Doe's Mediport was installed and one week before Mr. Doe was presumably scheduled to begin chemotherapy, the Entities suddenly released him from Hudson County Correctional without warning or adequate planning.

Mr. Doe's release abruptly terminated his cancer treatment. The Entities released Mr. Doe without a discharge plan relating to his cancer diagnosis, ongoing cancer treatment, and prescribed chemotherapy. Additionally, the Entities released Mr. Doe without removing his Mediport and without a plan for how he would receive care for his Mediport. Moreover, the Entities released Mr. Doe without documents regarding his cancer diagnosis, a treatment plan, information on how to access his treatment plan, information about how to connect to health insurance, medical records, or identity documents. In so doing, the Entities caused further unnecessary and unjustified delay in Mr. Doe's chemotherapy treatment.

As a result, Mr. Doe was unable to gain timely access to community medical care and health insurance. Because he was unable to gain timely access to his medical records, he could not receive medical treatment. Mr. Doe repeatedly attempted to obtain medical care over the next weeks, but was unable to do so without further intervention and support.

On approximately April 16, 2016, days after his release, Mr. Doe sought medical treatment at Columbia Presbyterian Hospital. This hospital was unable to treat Mr. Doe because he did not have medical records from his period of detention by ICE at Hudson County Correctional, and was thus unable to demonstrate his need for emergency care, which otherwise would have been covered under Emergency Medicaid.

Mr. Doe then tried to obtain medical treatment at Bellevue Hospital. Bellevue Hospital similarly was unable to treat Mr. Doe, and gave him a list of medical records that they would require from the hospital prior to treatment.

Mr. Doe's immigration attorney requested the medical records required by Bellevue Hospital, and Mr. Doe's permanent residency card from ICE agents. Mr. Doe needed these documents to receive full comprehensive Medicaid. On approximately April 26, 2016, ICE agents requested that Mr. Doe retrieve these documents from their office on Varick Street. That same day, Mr. Doe went to retrieve the promised documents, but was only provided with his permanent residency card. Eventually, through the tenacity of his immigration attorney and with the assistance a volunteer doctor, Mr. Doe finally obtained his medical records.

On approximately May 9, 2016, Mr. Doe was finally evaluated by an oncologist at Bellevue Hospital. Mr. Doe finally began his chemotherapy treatment on or about May 16, 2016, approximately **sixteen months after he first reported pain** in his anus.

IV. MR. DOE'S MEDICAL HISTORY WAS NOT MAINTAINED IN A CONFIDENTIAL MANNER AT HUDSON COUNTY CORRECTIONAL

The Entities failed to abide by common professional and legal standards governing medical privacy. When administering Mr. Doe's HIV medications, medical staff routinely announced the names of his medications loudly in public spaces. Medical staff even continued to do so after Mr. Doe implored them to stop out of fear that others would discover his HIV status. This policy and practice regularly occurred in contravention of the ICE Detention Standards, which provide that "medications shall be . . . administered in a timely manner . . . that seeks to preserve the privacy and personal health information of detainees."

V. POOR MEDICAL CARE AT HUDSON COUNTY CORRECTIONAL IS A SYSTEMIC PROBLEM AND NOT LIMITED TO MR. DOE

Issues with poor medical care at Hudson County Correctional are not limited to Mr. Doe's experiences. In fact, just last month, the Office of the Inspector General of the Department of Homeland Security issued a report identifying significant problems with the treatment and care of people in ICE detention at Hudson County Correctional and three other facilities.⁴ It documents complaints of poor treatment, failure to record medical complaints and outcomes, and delays in providing medical treatment. It concludes that additional ICE oversight is needed and recommends specific review of the care received by people in detention at Hudson County Correctional.

⁴ <https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-32-Dec17.pdf>

The recent Inspector General’s report was preceded by a 2016 Complaint submitted by Community Initiatives for Visiting Immigrants in Confinement (“CIVIC”) on behalf of 61 individuals detained by ICE who received poor medical care while they were held at Hudson County Correctional. According to CIVIC’s investigation, 121 ICE detainees have submitted individual complaints concerning poor medical care directly to Hudson County Correctional since January 2014. Additionally, since 2006, there have been approximately 202 cases filed in the United States District Court for the District of New Jersey alleging poor medical care by CFG Health Systems.

NYLPI’s Health Justice Program also released a report in 2017 documenting the serious, often life-threatening, deficiencies in the medical care provided to people detained in New York City-area immigration detention facilities.⁵ The report shows that these facilities regularly fail to provide adequate medical care to those who are detained, to the point of violating their constitutional rights. NYLPI’s work has shown that ICE and County jails are delaying and denying necessary and essential medical care – leading to devastating health consequences such as emergency surgery and worsening conditions of treatable diseases and pain.

Mr. Doe’s experience is not isolated, and, is instead, typical of endemic deficiencies in the medical care at Hudson County Correctional. We understand that Hudson County has set up an ad hoc committee to address the adequacy of healthcare provided to people detained by ICE at Hudson County Correctional, as a result of CIVIC’s complaint. We request that this ad hoc committee convene to address the issues raised in this letter.

VI. RECOMMENDATIONS

New York Lawyers for the Public Interest makes the following recommendations based upon both the deficiencies in Mr. Doe’s medical care, and other evidence that people detained by ICE at Hudson County Correctional with serious medical conditions are routinely denied adequate medical care.

Recommendations to ICE, Hudson County Correctional, and CFG:

- Provide effective healthcare and medically appropriate treatment to individuals in a timely manner, including discharge planning;
- Provide discharge planning to those with serious and/or chronic medical conditions that prevents disruption of medical treatment and ensures timely access to medical treatment post-release;
- Ensure a reasonable wait time between the request for medical care, a visit to a medical professional, and receipt of an effective course of treatment;

⁵ <http://www.nylpi.org/detained-and-denied-nylpi-releases-report-spotlighting-access-to-healthcare-in-immigration-detention/>

- Provide timely specialized or off-site medical care to individuals based on medical need;
- Keep complete medical records and charts for all people detained;
- Provide requested medical records immediately, and create a system by which people formerly detained can easily request their own medical records from the Entities; and
- Train ICE, Hudson County Correctional, and contracted medical provider staff on the PBNDS and legal requirements with regard to the provision of medical care, confidentiality of medical information, and discharge planning.

Recommendations to ICE:

- Use alternatives to detention for individuals with existing serious medical conditions;
- Create a comprehensive oversight and monitoring system that regularly reviews contracted facilities and ensures the provision of adequate medical care to those in ICE detention, complete with affirmative recommendations and benchmarks that the contracted facility must meet; and
- Deny renewal of Inter-Governmental Services Agreements to contracted facilities that fail to provide adequate medical care to those in ICE detention.

In closing, we request the opportunity to meet with you to discuss the care Mr. Doe received during his detention, our recommendations addressing the recurrent problems with the healthcare provided to those in ICE detention in general, and specifically our recommendations regarding immigration detention at Hudson County Correctional. We look forward to your prompt response and a constructive dialogue.

Sincerely,

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